

STATE OF NORTH DAKOTA.
PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline
Project Siting Application

Case No.
PU-22-391

TRANSCRIPT OF FORMAL HEARING

June 3, 2024

Bismarck, North Dakota

APPEARANCES

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Substitute Decisionmaker Timothy J. Dawson

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Intervenors/Landowners

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1 ALJ HOGAN: All right. Good morning. My clock
2 says 8:30 so we are going to get started. Today is
3 June 3rd, 2024. This is the last day scheduled for the
4 technical hearing in Public Service Commission Case No.
5 PU-22-391. This is a siting application for SCS Carbon
6 Transport LLC for the Midwest Carbon Express pipeline
7 project.

8 We are reconvening today. And before we begin
9 with testimony again, I will just ask if there's any
10 preliminary matters we need to address before we get
11 started.

12 COMMISSIONER CHRISTMANN: Your Honor?

13 ALJ HOGAN: Yes.

14 COMMISSIONER CHRISTMANN: I do have, from a
15 long, long time ago, a previous commitment from 3:30 to
16 4:30 but would require a little setup time so probably
17 like 3 to 4:30.

18 ALJ HOGAN: Okay.

19 COMMISSIONER CHRISTMANN: If we aren't done -- I
20 just kind of always assumed that this probably would be
21 done by then, but if it is not, it would be my intention
22 to just step away, but I certainly will review all the
23 recordings and everything and get up to speed on it.
24 But that just is lingering and I just wanted to explain
25 it in advance if we get to that time.

1 ALJ HOGAN: All right. Thank you.

2 Mr. Leibel.

3 MR. LEIBEL: Yes, one thing, Judge. I just
4 wanted to advise the Court we either have filed or will
5 file this morning a motion for Brian so he can appear --
6 or Mr. Jorde can appear tomorrow without local counsel
7 making the drive to Linton.

8 ALJ HOGAN: It's been filed. I saw it this
9 morning and I will grant it and, hopefully, a paper
10 order will go out today, but, if not, I'm on the record
11 saying it will be granted so...

12 MR. LEIBEL: Thank you, Judge. I just wanted to
13 let you know.

14 ALJ HOGAN: All right. Anything else?

15 All right. Mr. Phillips, I think you have the
16 first witness this morning.

17 MR. PHILLIPS: Yes. Good morning, Your Honor.
18 And just to introduce myself, I am David Phillips
19 representing Burleigh County, filling in for Randy Bakke
20 today.

21 We call Bailey Elkins.

22 ALJ HOGAN: Ms. Elkins, can you hear me okay?

23 BAILEY ELKINS: Yes, I can.

24 ALJ HOGAN: All right. Now I can hear you.

25 Great. Before you -- well, I'll have you start by

1 stating your full name for the record and spelling your
2 last name.

3 BAILEY ELKINS: Bailey Elkins, E-L-K-I-N-S.

4 ALJ HOGAN: And, Ms. Elkins, before you testify
5 this morning, I'm required by law to advise you on the
6 penalties for perjury in the state of North Dakota.

7 Perjury is a Class C felony, punishable by a
8 maximum fine of \$10,000, a maximum five years'
9 imprisonment, or both.

10 Do you understand what perjury is?

11 BAILEY ELKINS: Yes.

12 ALJ HOGAN: And being advised of the potential
13 penalties for perjury, do you promise to tell the truth
14 in this case today?

15 BAILEY ELKINS: I do.

16 ALJ HOGAN: All right. Thank you.

17 Go ahead, Mr. Phillips.

18 MR. PHILLIPS: Thank you, Your Honor.

19 And just very briefly before I question, just to
20 let the commissioners know Ms. Elkins did previously
21 testify in this matter as a member of the public on
22 October 22nd, 2024, just about her concerns in relation
23 to the pipeline near her home. She's going to testify
24 today about additional issues relating to drinking
25 water, source water, surface water, and slope issues,

1 and clarify some issues that came up in her previous
2 testimony.

3 BAILEY ELKINS,

4 being first duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. PHILLIPS:

8 Q. Ms. Elkins, can you state your name for the
9 record?

10 A. Bailey Elkins.

11 Q. What is your occupation?

12 A. I currently work as a project manager with
13 training as a geologist.

14 Q. Can you tell the commissioners about your
15 educational background specifically relating to drinking
16 water, source water, and surface water?

17 A. Certainly. I have a bachelor's of science in
18 geoscience with coursework emphasis on geochemistry,
19 hydrogeology, and geophysics.

20 Q. And can you tell the commissioners your work
21 history, again with a particular emphasis on those water
22 and slope issues?

23 A. I have worked as an environmental geologist in
24 pipeline remediation and environmental day permitting,
25 as well as source water protection specialist for North

1 Dakota -- North Dakota Rural Water Systems Association
2 for over five years as a source water protection
3 specialist working with communities to understand their
4 drinking water sources and providing -- or helping them
5 develop pragmatic solutions to protect their drinking
6 water.

7 Q. And in preparation for your testimony today,
8 have you reviewed these documents that were provided by
9 my office?

10 A. I have.

11 Q. I'll just briefly read through the list of
12 documents and just have you confirm at the end that you
13 did receive and review those documents. Phase I
14 Geohazards Assessment document dated January 30th, 2024,
15 specifically at section 6. And for the record, that's
16 Docket 437-7.

17 Prefiled testimony of James Powell regarding
18 geological instability. Just again at page 6 along with
19 Exhibit C. That's Docket 530 and also hearing Exhibit
20 SCS R-12.

21 A letter from Edward Murphy to Victor Schock
22 dated March 3, 2023. That's Docket 64. Letter from SCS
23 Carbon Transport to North Dakota Geological Survey,
24 dated March 31st, 2023. That's Docket 165. Letter from
25 Edward Murphy to Victor Schock dated March 7th, 2024.

1 That's Docket 457.

2 Portions of SCS Carbon Transport's petition for
3 reconsideration at Docket 371.

4 And the Bismarck route analysis by Summit Carbon
5 Solutions filed with the PSC on January 24th, 2024. And
6 that's at Docket 432.

7 Just confirming that you've received those
8 documents and have reviewed them?

9 A. I have.

10 Q. Have you seen anything in what you've reviewed
11 to suggest that Summit indicates it will follow best
12 practices in relation to geohazard assessment to
13 identify high hazard or landslide erosion areas?

14 A. I've seen some evidence that they've attempted
15 to follow some best practices; however, not in their
16 entirety.

17 Q. Can you explain that last part, "not in their
18 entirety"?

19 A. Specifically, that they have attempted to
20 conduct field assessments but have not engaged in field
21 assessments of all identified slide areas or high slope
22 areas.

23 Q. Have you seen anything to suggest that Summit
24 plans to account for crossing ephemeral or seasonal
25 water features?

1 A. I have not.

2 Q. Is it your experience that large precipitation
3 or run-off events can contribute to significant erosion?

4 A. It is.

5 Q. Have you seen anything -- I'm sorry, go ahead.

6 A. Go ahead. No, that's okay.

7 Q. Have you seen anything to suggest that Summit
8 plans to identify locations where civil or geotechnical
9 mitigation measures are needed to minimize slope
10 movement?

11 A. I've seen suggestions from Summit's consultant,
12 but I haven't seen any indications that those
13 suggestions would be implemented.

14 Q. Have you seen anything to suggest that Summit
15 plans to develop site-specific reclamation and
16 re-vegetation strategies?

17 A. I have not.

18 Q. These various issues that you just addressed, do
19 they address and are related to environmental concerns
20 as well as health and safety concerns related to the
21 pipeline?

22 A. Environmental concerns, I would be concerned
23 about significant erosion from inadequate re-vegetation
24 and the potential for a site rupture if too much soil
25 were removed or were to expose that pipe.

1 Q. Do you believe the PSC should impose
2 requirements on Summit in that regard?

3 A. I do. I do.

4 Q. Let's talk a little bit about slope stability
5 specifically. At the April 22nd hearing, did Mr. Pelham
6 ask you some questions about slope stability in relation
7 to the pipeline?

8 A. He did. He asked what my recommendation would
9 be, which I suggested having field geologists review the
10 route in person.

11 Q. Actually going out to the site in person; right?

12 A. Correct.

13 Q. Based on your review of the documents in this
14 case, do you still have concerns about Summit not having
15 sent field geologists out to the field?

16 A. I do have concerns only identified slopes -- or
17 identified landslides have been visited in person, and
18 even those that have been identified, Summit has said
19 that they've only visited a subset of those. And while
20 active landslides would pose a hazard, there's also the
21 possibility that significant precipitation events just
22 like we saw east of Jamestown yesterday -- or west of
23 Jamestown, excuse me, could contribute to new slides.
24 So that type of slope identification, or lack of, would
25 be hazardous to the pipe.

1 Q. Following the April 22nd hearing, did you
2 conduct some further research to try to address
3 Mr. Pelham's questions?

4 A. I did. I heard Mr. Pelham ask a representative
5 from Summit what -- if that was industry best practices.
6 So I identified several documents, one from a pipeline
7 transmission company on their operating practices for
8 how they handle construction and landslide mitigation,
9 as well as an additional document put together by
10 several larger pipeline operators in conjunction with
11 The Nature Conservancy that identified best practices in
12 high slope areas.

13 Q. Thank you.

14 And let's turn to those one at a time. I'm
15 going to have you look at Exhibit BC131. Ms. Elkins,
16 let me know when you have that up.

17 A. I do.

18 Q. And is this one of the reports that you just
19 mentioned a moment ago?

20 A. It is.

21 Q. And is this document a collaboration between
22 various oil and gas pipeline companies and The Nature
23 Conservancy?

24 A. It is.

25 Q. Do you believe this report has some helpful

1 information that the PSC should consider in relation to
2 the Summit pipeline?

3 A. I do.

4 MR. PHILLIPS: Your Honor, I would move to
5 introduce Exhibit BC131.

6 ALJ HOGAN: Any objection?

7 MR. GLUDT: No objection, Your Honor.

8 ALJ HOGAN: Mr. Leibel.

9 MR. LEIBEL: We have no objection.

10 ALJ HOGAN: Mr. Pelham.

11 MR. PELHAM: No objection.

12 ALJ HOGAN: All right. BC131 is received.

13 Q. (BY MR. PHILLIPS) And specifically what aspect
14 of this report do you think would be useful for the PSC
15 in rendering a decision in this case?

16 A. I think the PSC would benefit from the
17 preconstruction phase information provided in this
18 report, as well as potential best practices and
19 operation and maintenance best practices, that it would
20 be helpful in ensuring that Summit is following the best
21 practices identified by these oil and gas pipeline
22 operators considering that a rupture in their pipe could
23 pose significant hazards to those of us who reside near
24 the pipeline.

25 Q. And does this report identify best practices

1 specifically to improve steep slope pipeline
2 construction?

3 A. It does.

4 Q. And maybe just very briefly tell the Commission
5 generally what the report says about that.

6 A. So the report outlines best practices during
7 construction identifying hazard areas, crossing -- water
8 crossings, locations where additional measures would
9 need to be taken place, and then site-specific
10 activities when they are reclaiming that site or
11 reburying that, as well as additional best practices
12 during the construction phase of the pipeline and how --
13 and in siting the pipeline.

14 Q. Have you seen anything to suggest that Summit
15 has best practices in place to ensure optimal placement
16 and installation of slope barriers?

17 A. I've seen some effort to avoid slope areas and
18 be guided by the North Dakota Geological Survey, but I
19 have not seen anything along the route beyond the
20 guidance provided by the North Dakota Geological Survey,
21 to my recollection.

22 Q. Have you seen anything to suggest that Summit
23 plans to follow best practices to optimize groundwater
24 management during the construction?

25 A. I have not beyond horizontal boring, but I do

1 have concerns on how that could impact local water
2 tables and especially local perched aquifers that serve
3 as the sole drinking water source for more remote rural
4 residents.

5 Q. And do you believe the PSC should require Summit
6 to follow best practices and address these concerns?

7 A. I do.

8 Q. Does this report also address the operations and
9 maintenance phase for the pipelines?

10 A. It does.

11 Q. And does it describe best practices?

12 A. It does describe best practices.

13 Q. Again, just generally describe for the
14 Commission what this report says about those best
15 practices.

16 A. For the operations and maintenance phase, it
17 identifies what -- how often things should be reviewed,
18 how often things should -- and I have seen some
19 information regarding that in (indiscernible) -- in
20 Summit's application, but I have not seen everything
21 identified. And I apologize, it's been a little while
22 since I've read that. I don't think I can identify or
23 briefly summarize for you.

24 Q. In any event, based on your --

25 A. I was more concerned on the hazardous mitigation

1 during construction and identifying the site.

2 Q. Based on your review of it, do you believe it
3 would be appropriate for the PSC to require Summit to
4 follow those best practices?

5 A. Absolutely.

6 Q. I'm going to have you now look at Exhibit BC132.

7 A. I have it available.

8 Q. Is this the other document you referred to
9 earlier that you found in your research?

10 A. It is.

11 Q. And is this a slope stability procedure document
12 for the construction of an actual pipeline?

13 A. It is.

14 Q. And it appears this was prepared by Dominion
15 Transmission, Inc.; is that right?

16 A. That is correct.

17 Q. What type of pipeline is covered by this
18 document?

19 A. It is a natural gas pipeline.

20 Q. Is there information in this policy and
21 procedure that you believe would be helpful for the PSC
22 to consider in this case?

23 A. I believe the PSC should consider the field
24 reconnaissance portion of this pipeline as well as some
25 of the slope failure training policies that are laid out

1 and slope failure mitigation practices and also consider
2 what inspections have been required as carbon dioxide
3 leaks are more hazardous than natural gas.

4 MR. PHILLIPS: Your Honor, I'd move to introduce
5 Exhibit BC132.

6 ALJ HOGAN: Any objection, Mr. Gludt?

7 MR. GLUDT: No objection, Your Honor.

8 ALJ HOGAN: Mr. Pelham.

9 MR. PELHAM: No objection.

10 ALJ HOGAN: All right. BC132 is received.

11 Q. (BY MR. PHILLIPS) Have you seen anything to
12 suggest that Summit has prepared a similar policy and
13 procedure in writing for the pipeline design,
14 construction, and maintenance in this case?

15 A. I have seen some information regarding
16 maintenance, but I've not seen anything for the
17 construction phase of the project.

18 Q. Do you believe it would be advisable for Summit
19 to go ahead and prepare that for that additional issue?

20 A. I do.

21 Q. In your opinion, is the slope stability policy
22 and procedure important?

23 A. I think the slope stability policies and
24 construction procedures are very important. Potential
25 slides could have significant impact on that. In fact,

1 the pipeline regulatory agency -- oh, gosh, I'm going to
2 say the acronym wrong and I apologize -- of PHMSA,
3 pipeline hazardous materials association -- I'm sorry --
4 but they've released a document several years back that
5 I referred to in my previous testimony to indicate how
6 slope stability issues have had significant impacts on
7 pipelines and the hazards that they prevent.

8 The more stringent we can be in requiring these
9 things, the more likely -- or the more assured we, the
10 public, can be that these practices will be followed and
11 that the construction companies are following what has
12 been proposed in the application.

13 Q. What types of hazards do policies and procedures
14 like this help prevent?

15 A. In my experience, even in water transmission
16 lines, operators essentially shake their fist at the
17 as-builts, that things aren't necessarily done right.
18 So providing -- or insisting on training and policies
19 for how to handle certain areas like this would prevent
20 any kind of passing of liability to the construction
21 company, saying, "Well, we just didn't know better," and
22 ensuring that everyone working on this pipeline is on
23 the same page while they're building things and also
24 avoiding hazardous areas even as they're identified in
25 the field.

1 Q. How would you define "source water"?

2 A. In the drinking water industry, source water is
3 identified as a source of drinking water so where water
4 is supplied from.

5 Q. And what is a source water protection area?

6 A. Source water protection areas are defined as an
7 area that could -- well, back up. For groundwater,
8 source water protection areas are defined as an area
9 that could potentially have impact on a drinking water
10 supply within about a five-year period. It's generally
11 modeled to identify the contribution area from the
12 aquifer to the well.

13 For communities and areas that provide -- or
14 that are utilizing what we traditionally think of as
15 water bodies -- lakes, rivers, streams -- as their
16 drinking water supply, source water protection areas are
17 generally indicated to be an entire watershed. However,
18 for the state of North Dakota, that would make our
19 entire state a source water protection area so it has
20 been limited in scope where it extends a certain amount
21 of river miles upstream and a thousand feet beyond the
22 high-water mark of that water body.

23 Q. Do you have any concerns about the potential
24 impacts of the Summit pipeline on source water?

25 A. I do have some concerns if there were, in fact,

1 any ruptures. CO2 has been considered a pollutant and
2 it's also heavier than air. I can foresee it impacting
3 those water bodies and also potentially, in the event
4 of, like, a Missouri River crossing, water treatment
5 plants at the Missouri River Valley.

6 Q. Are there any statutes in North Dakota that
7 contain regulations or rules relating to the operation
8 of water resource districts?

9 A. There are.

10 Q. Have you looked at those before your testimony
11 today?

12 A. I have reviewed them.

13 Q. Does Burleigh County, to your understanding,
14 have a water resource district?

15 A. They do.

16 Q. And is it your understanding Burleigh County is
17 bound by State statutes in relation to the operation of
18 the Burleigh County Water Resource District?

19 A. Yes.

20 Q. And just to be clear, those statutes are found
21 in Chapter 61-16.1 of the North Dakota Century Code?

22 A. Correct.

23 Q. Based on your understanding of the law, is it --
24 does the water resource board have the power and
25 authority to make rules and regulations concerning the

1 management, control, regulation, and conservation of
2 waters and prevent the pollution, contamination, and
3 other misuse of water resources, streams, or bodies of
4 water included within the district?

5 A. I believe that is the language, so yeah.

6 Q. Is it your understanding that supercritical CO2
7 in large concentrations is a pollutant?

8 A. Yes.

9 Q. Is it your understanding that the Burleigh
10 County Water Resource District has the power and
11 authority to make rules and regulations concerning the
12 management, control, regulation, and conservation of
13 waters to prevent pollution contamination or other
14 misuses of water?

15 A. It is.

16 Q. From your work with the North Dakota Rural Water
17 Systems Association and otherwise, are you familiar with
18 the city of Bismarck and where they get the water
19 sources from?

20 A. Missouri River is the water supply for the city
21 of Bismarck.

22 Q. On the area where the Summit pipeline reroute is
23 proposed, the areas, are there nearby pipelines that
24 provide water to the city of Bismarck or other
25 municipalities in Burleigh County?

1 A. I believe the South Central water treatment
2 plant is a little over two and a half miles south of the
3 proposed pipeline crossing, which provides water to the
4 city of Wilton, numerous develop -- rural developments
5 and homeowners associations, portions of north Bismarck,
6 and I believe also extending out towards municipalities
7 near the city of Wing -- or not municipalities but
8 homes.

9 Q. Ms. Elkins, I'm going to have you look at BC107
10 which was previously admitted into evidence in this
11 case.

12 A. Okay.

13 Q. And what does this image depict?

14 A. This image depicts the pipeline's proposed route
15 in crossing the Missouri River. There's also culled out
16 the South Central Regional Water District's water
17 treatment plant and water intake.

18 Q. Do you know where the pipelines go from the
19 South Central Regional Water District?

20 A. I have a general understanding of where the
21 pipelines go; however, I have not seen a distribution
22 map beyond visiting their office and seeing things on
23 the walls in the past.

24 Q. Have you tried --

25 A. I reached out to -- I reached out to people that

1 I'd worked with previously in my position as the source
2 water protection specialist for North Dakota Rural Water
3 Systems Association, asking if they'd potentially be
4 willing to share that map with me. And initially I was
5 told that they would. However, upon further follow-up,
6 I was told that that information would not be provided
7 to me, that there were concerns about potential
8 political ramifications of allowing that to be shared
9 with the Public Service Commission for this hearing.

10 Q. What are the potential adverse consequences of a
11 CO2 leak into the water supply or the drinking water in
12 Burleigh County?

13 A. The initial concern that I would have for a
14 water -- or a CO2 leak would be incapacitating people
15 near -- or at the water treatment plant, that operate
16 that, followed by CO2 dissolves in the water, displacing
17 dissolved oxygen which makes that water not --
18 potentially unfit for aquatic life, as well as altering
19 the pH which could impact how the water is treated by
20 that plant, assuming that there were no catastrophic
21 issues for those operating it.

22 Q. How deep is the South Central Regional Water
23 District pipeline buried below the ground?

24 A. Best practices in the state of North Dakota are
25 to bury the pipelines around eight feet deep to avoid

1 freeze-up. The South Central Regional Water District
2 pipes are generally buried from about seven and a half
3 to eight feet.

4 Q. Is it your understanding the Summit pipeline is
5 proposed to be a maximum of about four feet deep in this
6 case?

7 A. It is.

8 Q. Do you have any concerns about that?

9 A. I have some major concerns that they will be
10 crossing a number of water mains as well -- as well as
11 service lines that are providing water to different
12 residences. In the event of a break, which my
13 experience in the water industry has indicated are
14 frequent due to frost heaving and other ground movement
15 issues, if that break were to occur near Summit's pipe,
16 I think that it would cause significant additional
17 burden to those operating that water supply to have to
18 work around the pipeline or whatever best procedures are
19 going -- or best practices are going to be.

20 I did not research what the best practices are
21 for excavating near a CO2 pipeline, but I imagine it
22 would involve something like a hydrovacuum and
23 potentially shutting down of the pipeline. And as a
24 ratepayer for the water systems, I can only imagine how
25 that's going to increase the cost beyond just bringing

1 out a backhoe and digging up a leak. There would be
2 significantly more coordination. Those of us that would
3 be impacted would be without water for much longer. And
4 as said, it would drive up cost for those of us who are
5 members of the water system for having to pay for these
6 procedures to work around the pipeline that wasn't there
7 when the rural water lines were put in.

8 Q. Have you reviewed maps of the location of the
9 proposed pipeline?

10 A. I have.

11 Q. And are you generally aware of where the
12 proposed pipeline on the north side is installed or
13 proposed to be installed in relation to Baldwin?

14 A. I am. Didn't really -- okay.

15 Q. Do you have any concerns about that?

16 A. In relation to Baldwin, I think that it is
17 remarkably close to the community, less than one mile
18 away from the community, and that it will be crossing
19 the South Central lines many times.

20 Q. Do you have any concerns if the route was moved
21 further south, you get further from Baldwin?

22 A. If it was moved further south from Baldwin, I
23 believe it would be impacting some of the other
24 neighbors, many more densely populated areas such as The
25 Ranch, and I believe it's already been rerouted further

1 north due to concerns about proximity to the city of
2 Bismarck.

3 Q. And just to wrap things up here, are you
4 familiar with the Federal Safe Drinking Water Act?

5 A. I am.

6 Q. Based on your education, experience, and
7 understanding, what effect does the Federal Safe
8 Drinking Water Act have on the Summit pipeline proposal?

9 A. The Safe Drinking Water Act controls injection
10 wells. I believe that it would definitely impact how
11 they would be handling those things but also
12 (indiscernible) as a potential pollutant that's going to
13 have to be addressed and concerns mitigated to protect
14 the city's water supply as part of it. It will require
15 additional work by the person who's taken over my
16 position as the source water protection specialist for
17 North Dakota Rural Water Systems Association as well as
18 additional revisions to those source water protection
19 plans for the city of Mandan, South Central Regional
20 Water District, and others, and that will be additional
21 burden on state employees to assist in the drafting of
22 that.

23 Q. Thank you, Ms. Elkins.

24 MR. PHILLIPS: Your Honor, I have no further
25 questions at this time.

1 ALJ HOGAN: Mr. Gludt, any questions?

2 MR. GLUDT: Yes, Your Honor, just briefly.

3 CROSS EXAMINATION

4 BY MR. GLUDT:

5 Q. Good morning, Ms. Elkins.

6 A. Good morning.

7 Q. I may have missed it. Did you say you reviewed
8 Summit's environmental construction plan which was filed
9 at Docket 1 in anticipation of your testimony?

10 A. Briefly, but that was some time ago, not in
11 preparation for my testimony.

12 Q. When you did look at it, did you review Summit's
13 plans for -- within that plan, Summit has set forth
14 plans for stabilization, reclamation and vegetation,
15 water management, and various crossing methods. Did you
16 look at those?

17 A. I do not recall. As I said, it was some time
18 ago. Months.

19 Q. Have you reviewed Summit's proposed pipeline in
20 comparison or with respect to the Commission's avoidance
21 and exclusion areas?

22 A. Could you reference the document name, please?

23 Q. Maybe I'll rephrase that. Do you know what the
24 Commission's avoidance and exclusion areas are?

25 A. I understand some of the avoidance areas. I

1 don't think I could recite them to you.

2 Q. Okay. One more question, Ms. Elkins. Are you
3 aware that Summit's going to bore the pipeline 49 feet
4 below the Missouri River bed?

5 A. I am aware that the Missouri River bed will be
6 bored 49 feet below, and I also have concerns about
7 scouring and reworking of that sand in the event of
8 flooding.

9 Q. Thank you, Ms. Elkins. I have no further
10 questions.

11 ALJ HOGAN: Mr. Pelham, do you have any
12 questions?

13 MR. PELHAM: I have a few.

14 CROSS EXAMINATION

15 BY MR. PELHAM:

16 Q. Good morning, Ms. Elkins. Sorry you're not able
17 to be here in person. Hope your recovery is going okay.

18 You mentioned a couple times in your testimony
19 this morning the North Dakota Rural Water Association.
20 Are you employed by them?

21 A. I was previously employed by them. I was the
22 source water protection specialist.

23 Q. Okay. And just to be clear, you're testifying
24 in your individual capacity, not for any employer;
25 correct?

1 A. Correct.

2 Q. Okay.

3 A. I am no longer employed with them. I am
4 testifying as an individual.

5 Q. Understood. And that's what I thought. I just
6 wanted to confirm that.

7 Mr. Phillips asked you a little bit about the
8 location of the proposed route in and around Baldwin and
9 he asked if you had concerns if the route was moved
10 south and you answered that question. Do you have
11 concerns if the route -- proposed route was moved north?

12 A. I believe that the route would have to be
13 significantly further north as moving several miles
14 north of Baldwin would place the route within the wind
15 farm that is north of Bismarck with significant
16 transmission lines and I'm assuming underground lines,
17 but I'm not as familiar with electricity gathering.

18 Q. Fair enough.

19 Early on in your testimony this morning, ma'am,
20 you were asked about whether or not Summit had done
21 field assessments as to the potential for sliding
22 subsidence, geological issues with where the route is
23 currently proposed to be. Do you have any specific
24 areas along the proposed route that you believe that
25 these additional field assessments should be done?

1 A. I believe that slope -- higher slope areas
2 should be receiving this field reconnaissance, not only
3 to identify existing slides but potential future slides.

4 Q. Understood. And in your review of the materials
5 that you cited you reviewed, where are these higher
6 slope areas specifically?

7 A. There's -- I've reviewed the portions of the
8 reroute as that is what's going to most likely impact
9 me. As I've said in my previous testimony, it is
10 difficult to place Summit's pipe with the way that their
11 map book is set up and no shapefiles have been provided,
12 but specifically west at Highway 83 between the Missouri
13 River and there, and I know that there's significant
14 topography within Emmons County as well as the north
15 Bismarck area.

16 Q. Thank you. Thank you, Ms. Elkins. I don't have
17 any other questions for you this morning.

18 ALJ HOGAN: Mr. Leibel or Mr. Jorde, any
19 questions?

20 MR. JORDE: Yes, Your Honor, thank you. I do
21 have some questions of Ms. Elkins.

22 CROSS EXAMINATION

23 BY MR. JORDE:

24 Q. You had discussed relative to the geohazard
25 questions field assessments. Are field assessments also

1 part and parcel of what's known as Phase II assessments
2 or Phase II surveys? Are you familiar with the
3 difference between a Phase I and a Phase II survey?

4 A. Are you talking about like environmental Phase I
5 and Phase II assessments? (Indiscernible).

6 Q. Yeah, in terms of, you know, like Phase I, for
7 instance, like a desktop identifying literature, you
8 know, something you can do in the comfort of your office
9 or home, and then Phase II, actually getting out there
10 in the field with an in-person geologist. Is that
11 something that kind of rings a bell to you?

12 A. Yes.

13 Q. All right. And it was your recommendation that
14 the in-person field geologist type of -- the next step
15 analysis should take place?

16 A. Correct.

17 Q. Are you aware that it's hypothesized that the
18 Satartia, Mississippi, incident was at least caused in
19 part by significant precipitation events that affected
20 and made the soil unstable?

21 A. I am aware.

22 Q. And those are the kind of concerns you have for
23 the sensitive areas that have not yet had field
24 geologist assessments in North Dakota; is that right?

25 A. That is correct.

1 Q. You mentioned shapefiles. How does a shapefile
2 -- what type of data is embedded within a shapefile that
3 would assist in analysis and could help further your
4 opinions along?

5 A. A shapefile is meant to be incorporated into
6 what we call GIS. So it's a map for a map-based system
7 that allows people to place that particular shape into
8 -- or onto other maps. Being able to have the specific
9 coordinates and locations of the pipeline would allow
10 people to more easily conduct analysis to identify
11 proximity from different features as well as overlaying
12 it on different types of soils that it's crossing and
13 reviewing topography, something as simple as putting it
14 on top of a topographic map.

15 Q. And having those shapefiles would be helpful and
16 greatly aid that type of analysis; correct?

17 A. Correct.

18 Q. As a geologist, have you become aware of
19 testimony in Iowa relative to the Summit proposed
20 pipeline that there's geology in Iowa sufficient to
21 store the CO2 that Summit seeks to store in western
22 North Dakota?

23 A. I've heard of --

24 MR. GLUDT: Objection, Your Honor. Relevance.

25 ALJ HOGAN: Hang on, hang on.

1 MR. GLUDT: Objection, relevance.

2 ALJ HOGAN: I think we've had others testify
3 about this. I'll allow you to ask limited questions,
4 but I don't want to get too deep into anything pertinent
5 to Iowa, Mr. Jorde.

6 MR. JORDE: Well, no. I appreciate that. This
7 is all pertinent to North Dakota since there's -- this
8 doesn't have to happen in North Dakota since it's
9 available in Iowa. That's all I'm establishing.

10 Q. (BY MR. JORDE) So you're aware of that
11 testimony?

12 A. I've heard of potential sequestration sites
13 closer to the bulk of the Iowa -- or the bulk of the
14 Iowa area plants.

15 Q. And as a geologist, based on your training,
16 education, experience, and background and based on your
17 concerns for the geohazards and other drinking
18 water-related hazards in North Dakota, would it be your
19 opinion that if there's sufficient geology in Iowa to
20 store the proposed carbon dioxide Summit intends to
21 transport, that it would be prudent to investigate that
22 more prior to routing 350 miles across North Dakota to
23 store it?

24 A. I believe it would be prudent to sequester the
25 carbon dioxide as close to the source as possible to

1 minimize any risks in transmission.

2 Q. All right. And you understand there's exactly
3 one source point of CO2 proposed in North Dakota that
4 would be part of this proposed Summit hazardous
5 pipeline; correct?

6 A. I do.

7 Q. All right. Thank you. I don't have anything
8 further.

9 ALJ HOGAN: Commissioner Christmann.

10 COMMISSIONER CHRISTMANN: Have you read any
11 siting certificate approval orders from the PSC for
12 other pipelines like Dakota Access or any of the other
13 major pipelines in North Dakota from somewhat recent
14 years? I'm not talking about in the '70s.

15 THE WITNESS: I believe I've read the Dakota
16 Access when there was significant political upheaval in
17 the area regarding that. However, that was quite a long
18 time ago and this is a very different product.

19 COMMISSIONER CHRISTMANN: And so there was that
20 order and then there was also the certification attached
21 to it. Do you recall that?

22 THE WITNESS: I do not.

23 COMMISSIONER CHRISTMANN: Okay. I guess my next
24 question was whether you feel that between our orders
25 and the attached certifications, whether they cover a

1 lot of the things that you're talking about, but if you
2 haven't reviewed one recently, I'll -- I guess no point
3 in asking that.

4 I just also want to touch on one thing that your
5 attorney said. Hopefully, it was just a slip of the
6 tongue. But do you recall when Mr. Phillips mentioned
7 this being buried at a maximum four-foot depth?

8 THE WITNESS: I've heard on average or
9 approximately four feet but as I --

10 COMMISSIONER CHRISTMANN: I just wanted to
11 clarify because a maximum of four feet implies that in
12 most cases it would be less than four feet, and the four
13 feet is a minimum, not a maximum. Is that your
14 understanding as well?

15 THE WITNESS: That had been my understanding as
16 well, that it would be deeper for borings.

17 COMMISSIONER CHRISTMANN: Okay. Thank you. No
18 other questions. Thanks for being here.

19 ALJ HOGAN: Commissioner Haugen-Hoffart.

20 COMMISSIONER HAUGEN-HOFFART: Good morning.
21 Just a clarification. I didn't write down all the
22 documents that you reviewed, but have you reviewed
23 agency documents as far as in reference to landslides?

24 THE WITNESS: By "agency," are you referring to
25 the Public Service Commission?

1 COMMISSIONER HAUGEN-HOFFART: Or like SHPO and
2 any of those -- any agency responses.

3 THE WITNESS: I have not done -- no.

4 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.
5 No further questions.

6 ALJ HOGAN: Mr. Dawson, any questions?

7 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
8 Thank you for appearing today.

9 ALJ HOGAN: Any redirect, Mr. Phillips?

10 MR. PHILLIPS: Very briefly, Your Honor. And I
11 will clarify that was my mistake and my slip of the
12 tongue, Commissioner.

13 REDIRECT EXAMINATION

14 BY MR. PHILLIPS:

15 Q. Just very briefly, Ms. Elkins. When Mr. Gludt
16 was questioning you about boring under the river, you'd
17 mentioned you do have some concerns about scouring and
18 reworking of sand, if I heard your testimony correctly.
19 Could you just briefly tell the Commission what those
20 concerns are?

21 A. My concern is that in higher precipitation
22 events or another potential event akin to when the
23 floodgates were opened for Garrison Dam or even releases
24 of ice dams, that water has tremendous power that is
25 able to move the river channel, that scouring would

1 potentially lower -- lower the depth of burial, if you
2 would, so that it's more likely to be impacted by debris
3 flow or other issues to the pipe. I also have concerns
4 regarding slides on the riverbanks in such an event that
5 the river could cause additional erosion that may impact
6 that horizontal drilling.

7 Q. Thank you.

8 MR. PHILLIPS: No further questions, Your Honor.

9 ALJ HOGAN: Mr. Gludt, any other questions?

10 MR. GLUDT: No, Your Honor.

11 ALJ HOGAN: Mr. Pelham.

12 MR. PELHAM: No, Your Honor.

13 ALJ HOGAN: Mr. Jorde.

14 MR. JORDE: No, Your Honor. Thank you.

15 ALJ HOGAN: Any other commissioner questions?

16 Mr. Dawson?

17 All right. Thank you, Ms. Elkins.

18 THE WITNESS: Thank you for having me.

19 ALJ HOGAN: All right. I think the next witness
20 is yours, Mr. Jorde.

21 MR. JORDE: I sure hope so. If Jon Hagerott is
22 available to take the stand, I call Jon.

23 ALJ HOGAN: Did you hear that, Mr. Jorde?

24 MR. JORDE: I did not.

25 ALJ HOGAN: Mr. Hagerott is saying that his

1 sister, is it Janel --

2 MR. JORDE: Janel? Janel Olson.

3 ALJ HOGAN: -- would like to testify.

4 MR. JORDE: Oh, perfect. Yep, Janel would be
5 great.

6 ALJ HOGAN: Good morning. First I'm going to
7 ask you to turn that microphone on, the gray button,
8 yep.

9 JANEL OLSON: There?

10 ALJ HOGAN: Yes.

11 JANEL OLSON: Is that on?

12 ALJ HOGAN: Yes. I'll have you state your full
13 name for the record and if you want to spell your last
14 name.

15 JANEL OLSON: Janel Olson, O-L-S-O-N.

16 ALJ HOGAN: And, Ms. Olson, were you in the room
17 this morning when I went through the penalties for
18 perjury?

19 JANEL OLSON: I was.

20 ALJ HOGAN: And do you understand what perjury
21 is?

22 JANEL OLSON: I do.

23 ALJ HOGAN: And being advised of the potential
24 penalties for perjury, do you promise to tell the truth
25 in this case today?

1 JANEL OLSON: I do.

2 ALJ HOGAN: All right. Thank you.

3 Go ahead, Mr. Jorde.

4 MR. JORDE: Thank you.

5 **JANEL OLSON,**

6 being first duly sworn, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. JORDE:

10 Q. Good morning, Ms. Olson. I noticed that you
11 have some papers in front of you. My first question is
12 have you testified either live or prefiled testimony
13 prior to today?

14 A. I have not.

15 Q. All right. And did you prepare some thoughts so
16 that we could get through this quicker and you could be
17 more organized with what important information you'd
18 like to share with the Commission?

19 A. Yes. I've just prepared a statement.

20 Q. All right. Would you like to make that
21 statement now?

22 A. I would.

23 Q. Okay. Go ahead.

24 A. Good morning. My name is Janel Hagerott Olson.
25 I'm a fourth generation farmer and rancher. And the

1 proposed Summit pipeline crosses our land.

2 One of Plato's most famous quotes is that
3 silence gives consent. This quote reflects his belief
4 that failing to speak out against injustice is
5 tantamount to condoning it. And I cannot be silent.
6 I'm here today because I'm deeply concerned about the
7 safety of this pipeline and the integrity of Summit
8 Carbon Solutions.

9 I'd like to start by showing you two pictures.
10 This picture is my three beautiful girls, Breanna,
11 Courtney, and Alyssa Olson. And this second picture is
12 my daughter Breanna and my granddaughter, Hadley. My
13 daughter Breanna is expecting and is due with her second
14 baby this month.

15 As a mother and a grandmother, I've had many
16 worries over the years, but by far my greatest concern
17 has always been their health and safety. The proposed
18 pipeline is about three-quarters of a mile from the home
19 that I grew up in, where my husband and I built our home
20 and have farmed and ranched for 32 years, and where some
21 day my hope is that my daughters will build their homes.
22 I show you these pictures today again because I want you
23 to not only see my precious girls' faces, I want you to
24 remember them.

25 Sadly, in the United States we've had many

1 tragedies: 9/11, the Boston Marathon bombing, Sandy
2 Hook, and so many others. Oh, and let's not forget
3 about the rupture of the carbon pipeline in Satartia,
4 Mississippi, in 2020 where toxic carbon dioxide spewed
5 into the air for about four hours and sent people to the
6 hospital and hundreds to be evacuated.

7 The sad thing is when tragedies like these
8 happen, maybe, just maybe, the names or the pictures of
9 the victims will flash across a newsreel or a memorial
10 wall will be set up, but days and weeks go by and
11 everyone forgets. That's everyone who's not directly
12 affected. For those who lost loved ones, have
13 long-standing health effects, witnessed the horror or
14 tried to provide life-saving treatment, their lives will
15 never be the same.

16 I show you those pictures because I want you to
17 remember their faces when there's a problem with this
18 proposed pipeline. I can only pray that it doesn't kill
19 them or cause long-standing health problems. I say
20 "when" because it is not a question if there's a leak or
21 an explosion. It's when. Just last month there was
22 another CO2 leak at the Lake Charles pump station in
23 Sulphur, Louisiana.

24 It's a fact, pipelines break and leak, whether
25 this is an oil, water, or CO2 pipeline. These pipelines

1 are subject to degradation due to many factors including
2 thermal expansion, contraction, and mechanical forces.
3 Although it's a known fact that pipelines leak and
4 break, there are way too many unknowns and no possible
5 way to predict the consequences with this proposed
6 pipeline.

7 How will the extreme temperature changes in
8 North Dakota affect the integrity of the pipeline and
9 its components? Where will this leak or break occur?
10 How far and what direction will the gas travel,
11 especially in the setting of the extreme wind we have
12 here in North Dakota? How many people will die? How
13 many will suffer long-standing physical and mental
14 health problems as a direct result?

15 How dare you, Summit Carbon Solutions, put the
16 lives of my girls, my grandchildren, and the people of
17 North Dakota at risk? Furthermore, how dare you
18 businessmen, the politicians with their own agendas who
19 support this project in the name of greed, put the lives
20 of North Dakotans at risk? How dare you?

21 I am beyond blessed to have my children live
22 close by and nearly every weekend we spend a day
23 together. If this proposed pipeline is allowed to be
24 constructed, I'll need to live in constant fear that if
25 my children and grandchildren come to visit, their lives

1 could be in jeopardy because of the proximity of this
2 pipeline to our home. Furthermore, how can I encourage
3 them to some day build a home and continue the legacy of
4 our family farm knowing that they face such significant
5 risk?

6 In addition to farming and ranching with my
7 father, my brother, and my husband, I have worked in
8 healthcare for 30 years, first as a CNA, then as a
9 registered nurse, and finally as a nurse practitioner.
10 I have devoted a large part of my life to the health and
11 well-being of the patients I serve. I worry about the
12 health and safety of my patients and all those who live
13 here in North Dakota.

14 Exposure to carbon dioxide has many health
15 effects. Depending on the concentration and the length
16 of exposure, CO2 can cause convulsions, coma, and death.

17 Thankfully in our area we have never experienced
18 a major CO2 event. However, I've seen many patients
19 whose level of CO2 in their body has risen to dangerous
20 levels. This is treated by shoving a tube down their
21 throat to provide mechanical ventilation when they can't
22 breathe on their own. Obviously, this is not a natural
23 process. Patients will try to fight this. They'll try
24 to rip out the tube. They'll have to be restrained and
25 sedated. For those who have had to witness this in

1 patients they care for or in people they love, it
2 creates emotions and memories that will never be
3 forgotten. I will never, ever forget seeing my mom on a
4 ventilator. My mom who was adamantly opposed to this
5 pipeline, who died on my birthday on July 6, 2022.

6 I ask you, Summit Carbon Solutions, and you the
7 commissioners, are you prepared to see North Dakotans or
8 those that you love on a ventilator due to toxic CO2
9 exposure if the Summit pipeline were to leak or to
10 explode? That will only occur if your loved one is
11 fortunate enough to survive the explosion and the
12 emergency personnel are able to get to them.

13 Are our firefighters, paramedics, and other EMS
14 personnel trained and able to respond to a potential
15 mass casualty event? Are our hospitals equipped to
16 manage and treat this type of emergency? You know,
17 there's only so many ventilators available.

18 The pipeline runs near Bismarck, one of North
19 Dakota's most populous cities. The hospitals in North
20 Dakota are running at capacity or near capacity every
21 single day. Patients wait hours to be seen and treated
22 in the emergency room. Many patients are held in
23 hallways on temporary gurneys waiting for a room in the
24 hospital. Sometimes this is hours. Sometimes it's
25 days. Frequently, our hospitals are on diversion. That

1 means they have absolutely no room to take another
2 patient. If our community is faced with a CO2 leak or
3 explosion, what happens to your loved ones then? Are
4 they just left to die?

5 Summit has met with some emergency responders
6 and say they have plans do more training in the future.
7 Does Summit have a plan for the fact that our hospitals
8 are at capacity and do not have the room or the staff to
9 care for an emergency like this? Perhaps they do: get
10 more body bags.

11 As I mentioned, I'm the fourth generation on our
12 family farm. My great grandfather, Edward Hagerott,
13 homesteaded here in 1883. For 141 years our family has
14 worked tirelessly to preserve and maintain the integrity
15 of our land. We have planted hundreds, if not
16 thousands, of trees and modified farming practices to
17 include no-till farming all in the name of preserving
18 the land that's sacred to us. This is with the hope
19 that some day our children can carry on our legacy.

20 Never in my mind, or I'm sure the mind of my
21 ancestors, would we intentionally do something that has
22 the potential to cause harm to our animals, our
23 property, and our neighbors, but that's exactly what
24 Summit Carbon Solutions is planning. They're taking the
25 garbage, the waste, from ethanol plants and piping it

1 across several states, disrupting often untouched land,
2 and dumping it in our sacred ground, putting all of us
3 in danger in the process.

4 Why in the world would anyone think that this is
5 acceptable? I think we all know why. It's money, it's
6 greed, and it's politics.

7 I'd like to give you an analogy. On our ranch
8 we have a feedlot. This needs to be cleaned of hay,
9 straw, and manure. This is our waste product. Let's
10 say I was to arrange to have our waste hauled, load
11 after load, hour after hour, day after day, and year
12 after year to you -- to the yards of you, the public
13 commissioners, or to the Summit executives or the
14 politicians who think this carbon pipeline is a good
15 idea. You, and I'm sure your neighbors, certainly
16 wouldn't enjoy the sight or the smell of the manure, our
17 waste piling up in your yard.

18 This analogy is like allowing Summit to pipe
19 their waste through and into our land. There's one key
20 difference, though. Our waste might look and smell bad,
21 but it won't kill you.

22 Finally, I'd like to speak to my concerns about
23 the integrity of Summit Carbon Solutions. Summit
24 claims, and I quote, "we remain committed to pursuing
25 good faith negotiation with landowners." As of today, I

1 have absolutely no recollection of one single in-person
2 visit, phone call, text, email, or letter from Summit to
3 myself. The only contact I've had with Summit has been
4 indirect.

5 When we initially found people walking on our
6 land without permission, we asked who they were and why
7 they were there. We were told they were surveyors from
8 Summit. We asked them to leave.

9 Fast-forward quite some time and I got a phone
10 call; mind you, while I was at work trying to care for
11 patients. This phone call came from my husband and my
12 brother. They informed me that the Summit entourage had
13 shown up at our farm with several vehicles and multiple
14 people. When my brother stopped them, they told him
15 that they had permission based on a court ruling.
16 However, due to Summit's extreme inattention to detail,
17 these surveyors were oblivious to the fact that our
18 property was not, in fact, included in this court
19 ruling.

20 The next contact I had with Summit, again
21 indirectly, was when I was served papers to appear in
22 court to grant Summit's request to survey our property.

23 An acquaintance of my husband and mine is a
24 landman and he works obtaining easements for multiple
25 companies. For a while he worked for Summit. This

1 acquaintance told us he'd be able to secure a crazy high
2 dollar offer for an easement on our property. When I
3 said we weren't interested, I was told by him that this
4 project is too big, too powerful, and it will go
5 through, and when that happens you'll get nothing
6 because eminent domain will be used. Summit's
7 commitment to good faith negotiations is to bully
8 landowners into signing easements?

9 These examples exemplify Summit's complete lack
10 of vigilance for attention to detail. A company that's
11 putting the health and safety of North Dakotans at risk
12 should be meticulous, and that certainly has not been
13 demonstrated by Summit.

14 It is known that Summit had private meetings
15 which included Chad Wachter, a developer. So Summit can
16 meet with a developer but can't meet with me, a
17 landowner? At this meeting, dispersion model details
18 were discussed, but this information has not been
19 released to the public. Why? Summit says this is
20 because of security reasons. But we all know the real
21 reason. They don't want the public to know the real
22 danger we're facing. Summit has repeatedly put dollar
23 signs in front of safety and landowner rights.

24 In conclusion, I'm asking -- no, I'm begging
25 you, the Public Service Commission, to deny Summit

1 Carbon Solutions' request. Remember these beautiful
2 faces and all of the residents of North Dakota. Don't
3 let money and political agendas take precedence over
4 their safety. Don't let them be the next tragedy that's
5 too quickly forgotten.

6 Q. Ms. Olson, thank you for that. And would you
7 like to have those photographs made a part of the
8 official record?

9 A. Yes.

10 Q. Okay. We can -- we can get working on that.

11 In the meantime I have a few follow-up questions
12 for you. You had mentioned your intention and that of
13 your family to continue to be able to develop the land
14 into the future and including future residences. Would
15 you, instead, decide not to do that type of development
16 if this hazardous pipeline is located on your land?

17 A. My -- my middle daughter, Courtney, has the same
18 dream I had growing up, and that was to continue our
19 family farm. She and I talked about this yesterday, and
20 I told her, I said, "Courtney, I don't know, I don't
21 know what I want you to do, because I don't know if it's
22 safe for you to build here."

23 And that's not fair. It's not fair for Summit
24 to take that away from us.

25 Q. And if the pipeline was located and affected

1 your future development such that you didn't do that,
2 would you agree that would have a negative economic
3 impact and wouldn't be in your best general welfare?

4 A. Absolutely.

5 Q. Now you had mentioned about being threatened by
6 a Summit agent with eminent domain and feeling bullied
7 and told that you might as well get on board or you'll
8 get nothing. Do you have any idea how many other people
9 went through that same process and ended up signing,
10 quote/unquote, alleged "voluntary easements" based on
11 bullying and threatening tactics?

12 A. I'm not aware of how many specifically felt -- I
13 can't speak to the feelings that they had, but I know
14 that this tactic has been used even when they came to
15 survey. My neighbors had a very -- I don't know the
16 word -- very unpleasant contact with the surveyors at
17 that time.

18 Q. Do you understand that, in preparation for these
19 proceedings in May, approximately on May 21st and then
20 again yesterday in some testimony by Mr. Boeshans for
21 Summit, they expressed to the PSC how willing they are
22 to work with you and how willing they are to have
23 conversations? How does that feel after two years of
24 being through all this?

25 A. Like I said, I've had no direct contact with

1 anyone from Summit. If they were concerned about me as
2 a landowner and the concerns that I have, they certainly
3 could have reached out to me, and they have failed to do
4 so.

5 Q. Ma'am, because we weren't hearing anything from
6 them, do you recollect that on behalf of APH Farms,
7 myself, Mr. Leibel, along with you and your brother,
8 prepared a letter and kind of some potential least-worst
9 options if this was to be approved? Do you recall that
10 in the April time frame?

11 A. I do not. I was not directly involved in that.

12 Q. Okay. So questions to that would be -- that was
13 the portion of the testimony that your brother, Jon, can
14 handle. Is that your understanding?

15 A. Yes.

16 Q. Okay. Thank you. All right. Well, I think
17 I'll ask him about the maps and that communication.

18 Is there anything else that you'd like the
19 Commission to know to consider their decision on whether
20 to approve or deny these applications before I turn you
21 over for cross-examination?

22 A. No. I think I've said what I wanted to say.

23 Q. All right. Thank you so much, ma'am. Some
24 others may have questions for you.

25 ALJ HOGAN: Mr. Gludt, any questions?

1 MR. GLUDT: No, Your Honor.

2 ALJ HOGAN: Mr. Pelham.

3 MR. PELHAM: Thank you.

4 CROSS EXAMINATION

5 BY MR. PELHAM:

6 Q. Good morning, Ms. Olson. I'm just wondering,
7 and if your brother is better to testify, just tell me,
8 but can you give the legal description of the property
9 we're talking about?

10 A. I cannot give that legal description.

11 Q. And it's -- your testimony, I believe it's your
12 testimony, that the proposed line does cross property
13 owned by this APH Farms; is that right?

14 A. Correct.

15 Q. And is that an LLC or a family partnership?

16 A. So I am part of a life estate on that property.
17 It is owned by my father, Arden Hagerott, and my
18 brother, Jonathan, and I are included in that life
19 estate so...

20 Q. Understood. Fair enough.

21 And you testified, ma'am, that you spoke with a
22 landman from Summit; is that right?

23 A. So -- yes. So he works for various companies.
24 He did a lot of work with oil lines and stuff like that
25 in the oil field, but this past year he did some work

1 for Summit and, you know, he contact -- or spoke to me
2 directly over the phone about a potential offer, but
3 that was not anything directly -- I believe directed by
4 Summit.

5 Q. So this landman, he's an acquaintance of yours?

6 A. Yes.

7 Q. Okay. Did he say that he worked for Summit?

8 A. Yes.

9 Q. So he was working for Summit and he's contacting
10 you directly related to this property that you have a
11 life estate interest in and proposing something to you?

12 A. He said he would be able to work with Summit to
13 arrange something, yes.

14 Q. And when was this?

15 A. I don't recall exactly, but it would have been
16 late last summer, early fall.

17 Q. And how many conversations did you have with
18 this individual?

19 A. One around a campfire and one by phone.

20 Q. Fair enough. And where was the conversation
21 left?

22 A. That I was not interested.

23 Q. No other follow-up from any agents,
24 representatives, from Summit after that?

25 A. None.

1 Q. That you had, but you heard Mr. Jorde ask you
2 about a letter that was sent. There was, presumably,
3 further --

4 A. No. I've had --

5 Q. You don't know anything about that?

6 A. I've had no contact, no.

7 Q. Okay. Thank you, Ms. Olson. I don't have any
8 other questions.

9 ALJ HOGAN: Mr. Phillips, any questions?

10 MR. PHILLIPS: No questions, Your Honor.

11 ALJ HOGAN: Commissioner Christmann.

12 COMMISSIONER CHRISTMANN: My only one is, so as
13 I understand, the life estate between you, your brother,
14 and your father, when you say -- other than the landman
15 conversations with you, my understanding is you said no
16 one has contacted you. Are you speaking on behalf of
17 your brother and father as well?

18 THE WITNESS: I'm speaking on behalf of myself.

19 COMMISSIONER CHRISTMANN: Do you know whether
20 there was contact or efforts to acquire easements
21 with --

22 THE WITNESS: Yes, they have --

23 COMMISSIONER CHRISTMANN: -- either your brother
24 or --

25 THE WITNESS: -- had contact with my brother and

1 my 84-year-old father who doesn't see or hear well and
2 has his own health problems. So probably not the best
3 person to speak to in that regard.

4 COMMISSIONER CHRISTMANN: But they did talk to
5 your brother --

6 THE WITNESS: They have.

7 COMMISSIONER CHRISTMANN: -- but not you? Okay.

8 THE WITNESS: I don't know if they've talked to
9 him personally. I know he's received communications.

10 COMMISSIONER CHRISTMANN: Okay. Thank you for
11 being here.

12 THE WITNESS: Yes.

13 ALJ HOGAN: Commissioner Haugen-Hoffart.

14 COMMISSIONER HAUGEN-HOFFART: Thank you.

15 Janel, I just need clarification on something.
16 You earlier testified that you've had no direct contact
17 from Summit.

18 THE WITNESS: Uh-huh.

19 COMMISSIONER HAUGEN-HOFFART: And then you go
20 through and you describe this landman from Summit as an
21 acquaintance and that worked with Summit to arrange
22 something. So that to me seems like there was direct
23 contact.

24 THE WITNESS: So --

25 COMMISSIONER HAUGEN-HOFFART: Can you just

1 clarify that for me?

2 THE WITNESS: Yeah. So this was a guy that we
3 -- where we camp and he comes down around the fire and
4 we might sit around and have some drinks or visit or do
5 things like that. And in that process is where this
6 came up and that he -- he worked, I think, just briefly
7 for Summit during that short time and there was one
8 phone call to me. We had talked about it down around
9 the fire. And in that capacity he had said that he
10 could potentially work with Summit to try to get us this
11 easement amount.

12 COMMISSIONER HAUGEN-HOFFART: So would you say
13 that was a direct contact?

14 THE WITNESS: No.

15 COMMISSIONER HAUGEN-HOFFART: Okay.

16 THE WITNESS: In my mind it's not, it is not
17 direct, because at that time I don't even know how
18 official his capacity was with working with them at that
19 point.

20 COMMISSIONER HAUGEN-HOFFART: Okay.

21 THE WITNESS: I don't know.

22 COMMISSIONER HAUGEN-HOFFART: Okay. Thanks for
23 the clarification. I have no further questions.

24 ALJ HOGAN: Mr. Dawson, any questions.

25 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

1 Thank you.

2 ALJ HOGAN: Mr. Jorde, any redirect?

3 REDIRECT EXAMINATION

4 BY MR. JORDE:

5 Q. Well, I guess I am also a little puzzled, ma'am,
6 and I appreciate you trying to be very precise with this
7 contact. Obviously this gentleman didn't show you any
8 employment contract, but from the way he was talking and
9 speaking, was it your impression that he was in
10 communication with or somehow working with Summit at the
11 time he made those overtures to you?

12 A. Yes.

13 Q. Okay. I don't have anything further. Thank
14 you.

15 ALJ HOGAN: Mr. Gludt, any other questions?

16 MR. GLUDT: Nothing further, Your Honor.

17 ALJ HOGAN: Mr. Pelham.

18 MR. PELHAM: Nothing. Thank you.

19 ALJ HOGAN: Mr. Phillips.

20 MR. PHILLIPS: Nothing, Your Honor.

21 ALJ HOGAN: Any other commissioner questions?

22 Commissioner Haugen-Hoffart.

23 COMMISSIONER HAUGEN-HOFFART: Sorry, I did have
24 one more.

25 You indicated, and I wrote down, "bullied and

1 threatened."

2 THE WITNESS: Uh-huh.

3 COMMISSIONER HAUGEN-HOFFART: Can you describe
4 what you mean by "threatened"?

5 THE WITNESS: Threatened by if you're not going
6 to consent to the easement, then you're going to get
7 nothing if this -- nothing for compensation if this were
8 to go through on eminent domain.

9 COMMISSIONER HAUGEN-HOFFART: Okay. Thanks for
10 the clarification. No further questions.

11 ALJ HOGAN: All right. Thank you, Ms. Olson,
12 for your testimony.

13 Mr. Jorde, your next witness.

14 MR. JORDE: Yep. And just for the record, once
15 we have copies of those photographs, we'll mark those
16 and I'll offer them, but we'll keep moving.

17 I call Jon Hagerott, please.

18 UNIDENTIFIED SPEAKER: And also to answer
19 Mr. Pelham's question about the legal description, it is
20 in Morton County, township 140 north, range 83 west,
21 section 10, the east half, section 11, the west half.

22 ALJ HOGAN: All right. Mr. Hagerott, I'll have
23 you start by stating your full name for the record.

24 JONATHAN HAGEROTT: Yes. My name is Jonathan
25 Hagerott. That's -- last name is spelled

1 H-A-G-E-R-O-T-T.

2 ALJ HOGAN: And is your first name --

3 JONATHAN HAGEROTT: Jonathan.

4 ALJ HOGAN: -- J-O-N.

5 JONATHAN HAGEROTT: J-O-N-A-T-H-A-N.

6 ALJ HOGAN: All right. Thank you.

7 JONATHAN HAGEROTT: I generally go by "Jon,"
8 J-O-N, just to be less formal.

9 ALJ HOGAN: All right. Mr. Hagerott, were you
10 in the room this morning when I went through the
11 penalties for perjury?

12 JONATHAN HAGEROTT: I was.

13 ALJ HOGAN: And do you understand what perjury
14 is?

15 JONATHAN HAGEROTT: I do.

16 ALJ HOGAN: And being advised of the potential
17 penalties for perjury, do you promise to tell the truth
18 in this case today?

19 JONATHAN HAGEROTT: I do.

20 ALJ HOGAN: All right. Thank you.

21 Go ahead, Mr. Jorde.

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JONATHAN HAGEROTT,

being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JORDE:

Q. Yes, Jon, good morning. Thank you for being here. My question, I notice you have various items and documents in front of you. First I would just like you to identify each one kind of as a roadmap for what we're going to discuss and then we can get into them.

A. Okay. I have a package of pictures of things I would like to show. I have my personal notes for my presentation here and my testimony here. I have a stack of letters that I received from Summit. And I have a similar package of letters that my father and mother received from Summit regarding our land in Morton County.

Q. Very good.

Now, with the blue folder, the photos, maybe we -- does it make sense for you to kind of talk through those? And, Jon, do you have enough that Mr. Leibel can help you pass those around and get that marked as an exhibit?

A. I made four copies, one for our attorney and one for each of the commissioners, is what I intended. I

1 didn't realize there would be a room with this many
2 so... If you would like to have those.

3 Q. And we can get copies made for you. And, Jon, I
4 think you're going to want to keep one of those folders
5 -- oh, you got it, right.

6 A. I do have my copy.

7 Q. So while those are being passed around, and I'm
8 sure Mr. Leibel, on a break here, can get copies made,
9 can you generally explain why those photographs are
10 important, what you think the Commission needs to
11 understand relative to those photos?

12 A. These are photos of our property and other
13 documents within there that -- well, I'll explain later
14 -- that relate to things we have experienced with Summit
15 and also things that my mother experienced with Summit
16 in this process are in that package.

17 ALJ HOGAN: Mr. Hagerott, will you pull the mic
18 a little bit closer?

19 THE WITNESS: I'm sorry.

20 ALJ HOGAN: No, you're fine.

21 THE WITNESS: I am --

22 ALJ HOGAN: You're just quiet.

23 THE WITNESS: Well, I will state that I am not a
24 public speaker. I get very nervous and apprehensive
25 about public speaking. This process has made me

1 extremely nervous. I was unable to sleep last night so
2 if my eyes are a little blurry and I'm a little
3 incoherent, I apologize. I will do my best to get
4 through this but --

5 Now I've lost my track. Where did we leave off?

6 Q. (BY MR. JORDE) You're just fine, you're just
7 fine.

8 And so -- okay. So we talk about the blue
9 folder. And, sir, I don't want to throw you off if you
10 have a logical sequence that you think makes the most
11 sense, which item of information would you like to go
12 through first?

13 A. Well, I do have sort of an order on my -- on my
14 notes. I have a few pages of notes that are just the
15 particulars to help me remember what I want to talk
16 about. I did not prepare a written statement. I do not
17 have time for that in my life, to work that up.

18 Like my sister said, I am the fourth generation
19 farming and ranching. My great grandfather homesteaded
20 1883. I'm not going to rehash all that history, but we
21 continue to farm that same ground. We do rent where my
22 great grandfather actually homesteaded.

23 And a little background on -- and a little
24 background on myself personally. Yeah, I grew up there.
25 I've got a bachelor's degree in civil engineering with

1 an emphasis in structural design. I have worked for
2 years as a structural engineer and a civil engineer.
3 I'm licensed in -- I've got 14 state -- well, I'm
4 licensed -- I have 14 state licenses in 13 individual
5 states. Encompassed the entire West Coast for high
6 seismic; California, Oregon, and Washington.

7 I farm with my dad and my sister and my
8 brother-in-law. It's farm and cattle. During the prior
9 hearings, I could not attend those earlier hearings.
10 With cattle calving going on, I wake up at 1 in the
11 morning and I'm out with the cows pretty much all night
12 working 14, 15, 16, 18-hour days. Right now I've been
13 planting our crops, frantically trying to get that done.
14 Again, long days.

15 So trying to prepare a written statement, I just
16 do not have time for that. So I've got just general
17 note talking points here. And I'm going to launch into
18 the first -- my bullet point which is my personal
19 experience with our land and utilities that run over
20 that land.

21 When I was about seven years old, my parents
22 bought me a mini 50 motorcycle which gave me a lot of
23 freedom. And we have quite a sizeable landholding. I
24 would disappear for hours on end as a little seven-year
25 old, eight-year old, nine-year old, ten-year old on up,

1 riding that little motorcycle through our property. And
2 so I know that property quite well from the beginning of
3 my earliest days.

4 And we have numerous -- well, we have three
5 power lines that cross our land, high voltage power
6 lines. We have an oil pipeline that runs across our
7 land. We have a rural water pipeline that runs across
8 our land. And they all present problems for us.

9 I'm going to start with the oil pipeline.
10 That's the photo from page 1. And you can see that this
11 pipeline -- I don't know if you can see that. That's
12 the condition the pipeline maintains their markings.
13 This is on the road -- adjacent to the road about -- I
14 don't know if it's even a half a mile north of our
15 farmyard. It's in total disrepair.

16 If you go to photo 2 or page 2, I want to talk
17 about the utility markings that they do. Every so often
18 they walk our property as some sort of inspection
19 process and they will put down those little flags. This
20 one happens to be orange. I just took a picture of it
21 just to highlight it. I think theirs are yellow in
22 color. And that crisscrosses several of our fields.
23 While I was out planting the first year after they did
24 this, I had to stop our four-wheel drive tractor and the
25 big air seeder behind it, hop out and pick these up.

1 And every so often I would see one as I was driving. I
2 didn't know they were there beforehand. I haven't found
3 all of them yet because I still find them. And they're
4 a real hazard for us because that ground that year I
5 planted oats hay. We cut that hay, we rake it up, it
6 gets into bales, and some of those bales we actually
7 grind up in a processor that we feed to our cattle. And
8 these bits of metal get in there and the cows eat that.
9 They can -- they can die from that. So I'm real
10 cognizant to find these. And I'm still finding them.

11 Another -- another item I want to talk -- and I
12 don't have pictures of it, on the property which we
13 rent, which was my great grandfather's original
14 homesteading land, in about 2016 or 2017 we planted a
15 new field of alfalfa. The following year when that
16 alfalfa was just coming up, when I happened to drive
17 down past that field, here they had -- the oil pipeline,
18 without any announcement, had shown up and dug a massive
19 hole in that field in what appeared to have no
20 protections for the topsoil, to scrape that off first;
21 it was just a big hole with a big pile of dirt. And
22 they exposed probably about a 30-foot-long piece of the
23 pipe that they did a repair on. And later they pushed
24 that soil back in and covered it up. And they didn't do
25 anything that I'm aware of to reseed it or anything.

1 And then to gain access to that area, they drove in from
2 the approach quite a distance away from the pipe and
3 tracked that fresh, new, brand-new alfalfa flat and did
4 quite a bit of damage. My father did receive a small
5 payment from them, but it did not cover the loss of
6 production for all the years since in that area.

7 Another thing that came up with that oil
8 pipeline that I'm worried about with this future
9 pipeline is what impact it will have on us in the future
10 with our use of that land or whoever would own it after
11 us.

12 And this example I want to say was about, again,
13 three, four years ago. We had a very dry spring. And
14 we have a small pasture about three-quarters of a mile
15 north of our house. And that pasture we use after our
16 cattle calve for a period of time until the calves get
17 larger and we can move them to the next pasture. Well,
18 that year with the dry weather conditions, the stock
19 pond had almost no water in it and it was actually a
20 foul-looking green color. So we fenced that off and we
21 drug a watertank up to that pasture and we would truck
22 water up there every day. Two times a day we would fill
23 it and go up and let water run into that tank. There
24 was freezing weather so we were having all kinds of
25 trouble with the valves on the tank freezing. It was a

1 major hassle.

2 That same time the State of North Dakota Water
3 Commission had a program for cost share on extending
4 waterlines for this emergency purpose. I filled out the
5 paperwork, got approved. I contacted a local plumbing
6 contractor. He gave me a quote of \$6,000. And the cost
7 share would have covered half of that. My mom who
8 controlled all the finances says, "Okay, we'll go ahead
9 and do that." She didn't want to. She thought it was
10 fine that we haul the water, but we did the work, not
11 her. So we had everything good to go.

12 One-call utilities called. And there was a
13 windmill farm, electrical line, there was a telephone
14 line, and then the Tesoro pipeline came and marked their
15 pipeline. And when they came and marked it, their
16 gentleman called me and met me in person at the pipeline
17 because he had specific requirements. And so he marks
18 the line and then we start talking about what we want to
19 do. And he says, well, if you want to put that pipeline
20 -- that waterline here, you have to be at least three or
21 four feet -- and don't quote me on the numbers, it's
22 been a while -- but he said you've got to be well below
23 the pipe and everything that you dig has to be hand dug
24 like 8 to 10 or 12 feet on each side of that pipe.
25 Because they were worried that, you know, you get a

1 contractor and he hits the pipe and it causes a problem.
2 So I relay that to our contractor, and he said that
3 \$6,000 price is now going to be about \$20,000 because of
4 that up -- hand digging, at which point my mom said no,
5 we can't afford that. So that was just -- you know,
6 something that my grandfather who allowed that pipeline
7 to be put in in the '50s for \$1 a foot never foresaw
8 that we would be encumbered by that in the future.

9 Q. So let me jump in there. And these are
10 analogies of your personal experience and basically --

11 A. Yeah.

12 Q. -- explaining that, regardless of how wonderful
13 things might seem in Summit's presentation now, you have
14 living proof where, once projects are approved and
15 constructed, those promises kind of fall by the wayside?

16 A. Correct. And I'd like to continue on. I have
17 more experiences.

18 If you go to photo 3 or page 3, I don't know,
19 it's maybe been 20 years. I don't know, it's been a
20 long time. Our neighbor asked that when the rural water
21 system would be put in, he wanted a pasture tap. And my
22 father agreed to allow that to happen, for them to cross
23 our property. And if you look at number 3, you can see
24 the pile of rocks that they brought up when they put it
25 in and they just left it on our property.

1 If you go to the next page, page 4, if you look
2 real closely down the middle of the picture, you can see
3 the line where the pipeline was dug in. And the grass
4 there is -- has never been the same. Whatever they
5 seeded, re-seeded it with, is a different texture and
6 quality than the original native prairie. And it's just
7 been permanently altered. And if you go to photo 5, you
8 can see where the grass that they re-seeded didn't take
9 hold and now it's just exposed earth, which it wasn't
10 like that before they dug the line in.

11 And the last one I want to talk about as far as
12 existing utilities on our property is the power lines,
13 one of the power lines. I believe in 2017 they sent a
14 heavy construction crew in to raise the line. So they
15 cut the wooden pole off and they raised it up and then
16 they use these metal-clamp devices to permanently hold
17 it in that upper position. And if you look at that
18 picture, I always -- I have substantial concern that
19 that has a lot of lean to it and I really wonder if some
20 day that will cascade over. And the next page, 7, is a
21 little closer view of it to try to highlight how it is
22 leaning. And you can see that metal bracket.

23 If you go to page 8, this is my prime concern
24 with that power line and that activity. When they
25 constructed or reconstructed those poles, they came in

1 with a bulldozer and they pushed a path nowhere near the
2 power line, but to gain the various locations of the
3 power line they used this bulldozer to push a path
4 through that their other heavy equipment, the cranes and
5 whatever they use, to proceed. And this was what we
6 were left with and it continues to erode. You can see
7 how the earth was just left raw, open, cut like that.
8 If you go to section -- or page 9, here's another one
9 that goes down a rather steep hill. This is what we
10 were left with. Go to photo 10, here you can see at
11 least they were somewhat under the power line but,
12 again, pretty substantial erosion and ruts there from
13 that. 11 is another view of it.

14 12, you can see the delta that's formed at the
15 base of the hill where the earth has eroded down. And
16 you can just barely make out at the bottom of that
17 picture a wooden structure that they use to cross the
18 water, the low valley water area there. The next
19 picture, 13, you can see it again, that structure that
20 was left behind. It's a wooden structure that evidently
21 they could drive their machinery over that somewhat
22 floated. And you can see that it's decaying. And so
23 then I took a closer shot on number 14 of what's been
24 left behind.

25 In addition to that power line, every so often

1 they're driving a UTV through to inspect it, which may
2 or may not, you know, cause distress to our cattle.
3 They're coming through and doing tree trimming on a
4 regular basis. And, again, they use that same path and
5 it's extra wear and tear on that soil. It's
6 unprotected. And I find garbage left behind up there
7 that -- when I go up and I ride around to enjoy the
8 beauty and to look at our cattle, there's garbage.
9 There's been gloves and food wrappers and cases of hose
10 or things that broke off of their equipment just laying
11 there.

12 And I'm going to conclude that area with just --
13 from what I've observed or heard or witnessed with
14 Summit's behavior, their lack of communication with us
15 and others, their tactics to basically hide behind
16 attorneys, a team of attorneys, to force this through,
17 other things that I've heard in the news about them,
18 that I really expect that they're not going to treat our
19 land any better than these other companies. I actually
20 expect it will probably be worse.

21 Q. Okay, Jon, I appreciate that and we will get
22 that -- those photos as an exhibit. Did you make it
23 through -- or where would you like to transition to
24 next?

25 A. The next one I would like to transition to is

1 the lack of actual communication they've had with us.
2 And that's why I brought this stack of letters. I
3 received these letters from Summit over time and that's
4 it. No calls, no in-person visits. And when I receive
5 these, I feel no obligation to respond to this. This is
6 just as if it's junk mail. I don't respond to every
7 piece of junk mail that I receive. By contrast -- and
8 these letters, they all say they had -- they all had my
9 name on it, my wife's name -- or I believe my wife's
10 name, my father and my mother's name with another
11 address, and my sister and her husband with another
12 address, and yet they didn't receive the bulk of these.
13 And I -- I brought what my dad received from them. And
14 as far as I know, he got two.

15 I suspect, being I have an out-of-state address,
16 they approached me with the letters. You know, out of
17 state, you're not close to the land, you're not probably
18 going to be worried about the pipeline and its dangers,
19 is all I can surmise. Pure conjecture on my part.

20 And again, no other communication from them.
21 Nothing in person. Like my sister said, the only
22 communication I received in person was when a summons
23 server finally caught -- tracked us down. And that was
24 where I happened to be standing with my dad and the
25 summons was delivered to my dad, and even though I was

1 standing right next to him and the summons server said
2 -- or my dad said, "Well, this is my son and he's part
3 of this," they couldn't find me because they were
4 looking for me down in Minnesota and it took them quite
5 a while to get ahold of us down there.

6 Q. Jon, before you move on, I just wanted to make
7 sure. On your photo -- of your photos on page 14, it
8 looks like -- you know, kind of like almost a makeshift
9 bridge with some ties there, some timber. What was the
10 purpose of that and why is it in disrepair? What's the
11 reason you want the Commission to understand that photo?

12 A. Well, to explain that structure, it was a
13 floating raft mat for heavy equipment. Our land has
14 lots of water areas that are just low -- at the bottom
15 of the hills and the valleys, there's just water that
16 oozes out of the ground all the time and it's just
17 constantly wet and very soft. There's no way you could
18 drive a vehicle across. So they drug these in to
19 provide that floating mat-type structure to drive over.
20 And there's a handful of these that have been left up
21 there. I can't tell you the exact number off the top of
22 my head right now, but there are others. And, yeah,
23 they were heavy timbers tied together with steel rods
24 and laid on the -- laid on the wet ground.

25 Q. And to tie this back to Summit, Jon, and

1 potentially affecting the four quarters or more of your
2 land, are you expressing to the Commission the
3 challenges of the geography and the physical makeup, the
4 hydrology of your land that makes it more difficult and
5 you believe you will be more significantly impacted
6 should this project be approved?

7 A. Yes. And I'm just -- I put these in here
8 specifically to highlight our personal experiences with
9 utilities and how they treat our land and treat us. But
10 I will get into -- I will get into greater detail on the
11 specific property that they want to put their pipeline
12 through to address more of those kind of issues.

13 Q. Okay. And just to help you along, Jon, I don't
14 know if you were going to continue to page 15, that
15 Farmers Union Insurance, that is an -- that document has
16 already made it into evidence. Did you have any just
17 brief comments related to your particular property or
18 concerns about that?

19 A. Yeah. Yes. I don't want to jump off of my
20 communication concept with Summit yet --

21 Q. Okay.

22 A. -- but the Farmers Union Insurance letter is
23 next on the list and, yeah, I can -- I can express that.
24 I surmise that that would have already been submitted
25 from others, but I included it here just in case. But

1 it does present us with substantial concern of the
2 liability associated with this pipeline, because if you
3 read in there, they say that they're excluding this
4 pollutant from our policy. It presents a substantial
5 exposure to you from a liability perspective and at a
6 substantial elevated risk of uninsured exposure. If
7 something happens, it's my understanding we'll be wiped
8 clean, you know, we'll lose everything, I have no doubt
9 about that, in the fight with attorneys and whatever
10 proceedings happen. I have no doubt about that based
11 off that letter.

12 Q. Okay. Now I'm sorry if I took you off your flow
13 if you want to continue with the communication piece.

14 A. Well, yeah, I would like to go back to the
15 communication aspect just a little bit more here,
16 because while these survey people were crawling around
17 our neighborhoods -- or our neighborhood, another
18 neighbor straight to the north of us basically, or
19 property straight to the north and slightly to the east
20 from our homestead, had allowed access.

21 And I saw this entourage, it's several vehicles,
22 lots of people, and they get out and they start to
23 proceed eastward, which is in the direction towards our
24 piece of property that they want to run the pipeline
25 over. So I buzzed up there and I told the gentleman

1 that was supposedly in charge, I said we haven't granted
2 access for them to -- onto our property. And the person
3 said, "Oh, okay. I guess we won't go there." Well,
4 then I -- and I said, "Well, I'm going to keep an eye on
5 you just so you don't go over there," but I didn't -- I
6 just drove down to our farmyard and I was busy doing
7 repairs on a piece of machinery. Later, when they
8 finished up, they drove by where I was working and I saw
9 a window roll down as he slowly went by and one of the
10 people, I couldn't identify who it was, but held up one
11 finger out of the window at me as he drove by. So he
12 gave me a very derogatory gesture that obviously
13 expressed his disapproval with my stance.

14 And then my sister already brought it up that
15 after lawsuit proceedings had happened I was working on
16 cutting an alfalfa field and I saw this whole entourage
17 of cars proceed past and turn up to the road where I
18 thought, "Uh-oh, they're here to gain access to our
19 property, they're going to do their -- try to get on
20 there." So I got out of the tractor, hopped in the
21 vehicle I had nearby, drove up there.

22 And they were all just hopping out, ready to go
23 over the fence and into our property. And I said, "Hey,
24 wait a minute, guys, you can't go in there, we have not
25 granted access." And the archaeologist that said he was

1 in charge said, "Oh, no, we've got the paperwork, says
2 we can." And he rifles through this little folder and
3 he pulls out a document. I'm, like, "Well, that's
4 something for Emmons County or somewhere else." I'm,
5 like, "Unless you have a court order that says you can
6 gain access to our property, you're not allowed to go
7 on."

8 And so it was very peaceful, very amicable. I
9 backed away. I called my father. He came down and
10 joined me. And if you -- it's a photo of mine here.
11 You go to photo 19, you can see my dad's sitting in the
12 pickup with me as we just sat there and watched these
13 guys. It took, I don't know, two, three hours that
14 morning. And I was actually in personal conversation
15 with Steven here, back and forth. And he had relayed to
16 me that --

17 Oh, and just after I told these -- this
18 archaeologist that "You're not allowed to go on there,"
19 and I'm sitting with my dad, not very long a sheriff's
20 deputy car drives by that Summit had called. And after
21 the sheriff deputy talks to those folks for a while, the
22 two deputies, the deputy and his assistant, come over
23 and talk to my dad and I, and he says, "Well, they've
24 got paperwork that says they can access your land." And
25 I'm like, "No, they're showing you a piece of paperwork

1 that's not relevant to us." And so he went back there
2 and they talked for a while and he came back and he
3 said, "Yeah, you're correct, they don't have paperwork
4 for you."

5 And this was in a time where Summit had already
6 served these eminent domain proceeding papers,
7 Judge Narum out of a district court somewhere else
8 granted that, but they had inadvertently left us out of
9 that filing so we weren't included. And so, I don't
10 know, it took a few hours, state's attorneys, whatever
11 were involved in the background, but finally they
12 wandered off and didn't do their survey. And to my
13 knowledge they haven't been back, but I can't watch it
14 24/7 to make sure.

15 Oh, somebody asked about APH Farms earlier. I
16 was just going to explain that. APH Farms is a name
17 that I've dreamt up for my mom and dad when I was in
18 high school because my mom was just starting to do some
19 computerized bookworking, and at the very top of the
20 page you were supposed to have some kind of header. So
21 I came up with "APH Farms," Arden and Patricia Hagerott
22 Farms, all that is. There's nothing informal -- nothing
23 formal about it. It's just what we've nicknamed it.

24 And the last thing I would say about this
25 communication and Summit's behavior here is that I've

1 tried to make arrangements for a public service hearing
2 in Morton County earlier and there was some form that
3 someone sent around and said if you could get five
4 signatures you could get a public hearing added to the
5 schedule. And so I reached out to every neighbor that I
6 could find in Morton County that was along the route,
7 and I got like three of them to agree to sign that
8 paper, my dad being one of them.

9 So I want to back up just a second here. Right
10 now we are in negotiations with the High Plains
11 Connector power line. I don't know if you've heard of
12 that one, it's been brought up at all yet. The
13 gentleman or that company has hired landmen. Those
14 landmen have just been working the landowners up and
15 down their proposed route. And they have been making
16 accommodation after accommodation after accommodation on
17 where to locate the power line. People that don't want
18 it, they've been around them. People that want it,
19 they're accepting it. And so when you see their final
20 work product -- I haven't seen it personally, but my dad
21 explained it to me from a meeting he went to. Their
22 line zigs and zags and jogs. It is not a straight line.

23 So I have no doubt if Summit weren't such
24 introverts and would actually get out and talk to
25 people, they could find willing participants all the way

1 through Morton County without any difficulty. But
2 instead they've decided, using maps in an office in
3 Texas, or wherever they're from, "This is where we're
4 going, come hell or high water, we're going there." And
5 in our case they're using eminent domain. They've
6 started to gain survey access. And I have no doubt that
7 is the next logical step once they decide that they're
8 going to proceed further.

9 Q. Jon, can I stop you there for a second? Are you
10 about to get kind of to your land and maybe the aerials?
11 And I have an exhibit which is the letter I sent. I'd
12 like to ask you about it. Are we getting close to that?
13 Okay.

14 A. Yeah.

15 Q. You might have additional copies, Jon, that you
16 brought, but there's a binder with tabs in front of you.
17 And tab 37 -- should be a 37, and Steve can help you if
18 not -- and we can come back to your papers, but tab 37,
19 I'll represent, Jon, that that is a true and accurate
20 copy of the letter we submitted to Summit when we hadn't
21 been hearing from them. And I just want you to identify
22 that and confirm if that's correct. It should be three
23 pages.

24 A. Yes. Could you restate your question for me? I
25 was looking at this.

1 Q. Sure, you bet. And what we're doing now, we're
2 just laying foundation, which means we're just
3 establishing what this document is, and then I'm going
4 to ask that it be received into evidence. So is this
5 the letter that -- in April, April 23rd, 2024, it's
6 dated, was sent to Summit's counsel, and you had
7 prepared pages 2 and 3, which are kind of least-worst
8 options, so to speak.

9 A. It -- yes. At your advice I did prepare it. It
10 goes against my better judgment. I do not want this on
11 our property.

12 Q. Right.

13 A. But yes --

14 Q. And I want you to explain that, Jon. I just
15 have to jump in there. So this shouldn't be taken like
16 this is some compromise that you want to exist, but
17 given the fact that we hadn't heard from them at all,
18 despite knowing that you've been opposed to this for --
19 going on two years now, did you prepare this at my
20 suggestion to at least maybe put something out there if
21 the Commission makes the unfortunate decision to approve
22 this?

23 A. I'd agree with that.

24 Q. All right. Now, again, I don't want to throw
25 you off your flow, but I think for the Commission it's

1 probably helpful for you as the expert of your land to
2 maybe continue with challenges, challenges generally and
3 then challenges based on Summit's proposed route, and
4 then maybe if you can get into, with the understanding
5 that you don't want this at all, of what led to your
6 proposed reroute, why would that make more sense in
7 relation to your land features and your operation?

8 A. There's a lot of things to unpack in there.
9 That reroute -- I personally have major concerns with
10 that pipeline running under our farm field or any farm
11 fields that we farm. We rent several. When we drive a
12 semi truck loaded with grain over top of that -- when
13 they constructed windmills around us where this oil
14 pipeline ran, which is three or four feet below the
15 ground, they made them berm up and over that pipe to get
16 an additional three, four, five feet over it to protect
17 it from that truck traffic. And here I've got farm
18 fields that we're driving those heavy semis with grain
19 in them or bales on them, the combines, the four-wheel
20 drive tractors, the heavy machinery, the farm equipment.
21 It just concerns me.

22 Having that soil disturbed by the pipeline
23 construction and compacted by the traffic on either side
24 of it for their installation, I think it's going to
25 destroy the productivity of that farmland for I don't

1 know how long. So, yeah, if push comes to shove and
2 they're going to bulldoze us under, I said, well, maybe
3 we can go around that field and avoid some of the other
4 issues that that property has. And I'll kind of try to
5 go through that a little bit.

6 That property my father acquired many years ago.
7 He bought it. I asked him when he bought it. He can't
8 remember. It's been a long time. It's got an old
9 farmhouse on it that was adobe constructed, little odd
10 soil bricks and then at some point they added wood
11 siding around it. It's got scattered debris all over
12 that land. There's numerous garbage pits out there that
13 are -- some may be buried, some are just open that was
14 put there before us and we've added to over the years.
15 There's abandoned wells where they dug wells to get
16 drinking water that have been abandoned on that
17 property. There's old barns and chicken coops and other
18 buildings that are sitting there decaying. There's
19 scattered farm equipment and other cars and -- around
20 there. It's actually the site of an abandoned coal
21 mine.

22 There's all kinds of wetlands or wet areas. And
23 where the original route goes through that field, it's
24 right at the base of a hill. And at the base of that
25 hill there is a section of land in there that in any

1 years that are not extremely dry we can't farm it
2 because the moisture; the water just oozes out of the
3 ground.

4 And I have concerns that that hill could slide
5 some day. The hill at the far -- the west end of that
6 field is very steep. That hill could slide some day. I
7 could take you around our property and show you numerous
8 hills that have slid over the years. My dad when he was
9 young, there was one hill that slid. That hill slid
10 again when I was in high school. That hill continues to
11 slide that's a little north of this. We've got all
12 kinds of other places in our pastureland that have slid
13 over the years. When it gets a little wet, it will
14 fall.

15 Q. And, Jon, are you referencing that in concern to
16 where this pipeline is proposed to potentially --

17 A. Their proposed route, yes. It goes right near
18 that wet spot and where the hill is steep on one side of
19 it and steep that they've got to climb right over. I'm
20 not guaranteeing that this reroute doesn't go through
21 wet spots either because there's others there where the
22 ground is just oozing with water.

23 One thing that's really interesting out in the
24 western edge of that pasture area, if you go to the west
25 end of that field there's that tall hill, and that tall

1 hill, it extends to the south for two miles maybe. And
2 when I was a little boy and we were moving our cattle
3 into that pasture after they had calved in the spring
4 and we had worked them, I was in a pickup truck with my
5 dad's uncle, my grand uncle, who grew up in the original
6 farmhouse and lived in the original farmhouse that my
7 great grandfather built. And he told me about how years
8 ago when he was young the old wagons and cars in the
9 earliest days, to get around that really tall hill, they
10 had various places they would drive to make it through
11 there as they would go from Mandan or wherever and head
12 toward Center or beyond. And the other thing he told me
13 back then is the Native Americans, Native Americans used
14 to camp out up on that hill and how they would travel
15 right down past their farmyard, and sometimes they'd
16 wake up in the morning and find them in their house. So
17 I have concerns that there would be native artifacts
18 there to be found.

19 So, yeah, I have just numerous concerns with
20 that pipeline proceeding through this area from the
21 environmental standpoint and from our personal safety
22 standpoint.

23 Q. So, Jon, I'm going to offer now Exhibit 37 and
24 then I'm going to have some more questions about that.
25 Okay?

1 A. Okay.

2 ALJ HOGAN: Mr. Gludt, any objection?

3 MR. GLUDT: No objection, Your Honor.

4 ALJ HOGAN: Mr. Pelham?

5 MR. PELHAM: No objection.

6 ALJ HOGAN: All right. 37 is received.

7 Q. (BY MR. JORDE) And then, Jon, you're a very
8 good historian and have lots of facts. I just want to
9 be real specific. If you can look at page 2 of 37. And
10 you might have it in front of you and it's an aerial
11 map. So there this is showing the proposed line of
12 Summit, and then in the red is, again, your -- you know,
13 kind of my arm-twisting, you put that together as a
14 potential. And then I think to make this more confusing
15 for you, yesterday Summit provided yet a different
16 route. And have you had a chance to look at their
17 latest potential route?

18 A. I saw that briefly. I can't recall the specific
19 details of it at this point. If somebody could put it
20 up, I could certainly talk to it.

21 Q. But I --

22 A. I had just finished with a very long day of
23 trying to plant soybeans and get a tractor moved and --

24 Q. That's fine. And we can get to that or perhaps
25 Mr. Leibel could pull it up on his screen or maybe even

1 Mr. Gludt might even have a color copy of that.

2 But, again, I want to kind of focus this on the
3 particular land issues and features and struggles. And
4 I think you've done a good job. But was there anything
5 else in particular that you haven't talked to in
6 reference to page 2 of Exhibit 37? And if you reference
7 any, can you reference the field and kind of north,
8 south, east, west so we -- you know, we're making a
9 record and we know what we're talking about here?

10 A. Well, yeah. Our property is section 10 and 11.
11 And I thought that the eminent domain was the north half
12 of that. I could be -- I'm not a hundred percent
13 certain because there were so many papers that went back
14 and forth regarding that. North is up on the page.

15 The field that I have concern with has an MP 176
16 right on it. If you notice just south of MP 176, you
17 can see the windmill tower. That windmill tower, they
18 actually excavated down between two hills to set it in
19 there. The hill that would be just to the northeast of
20 that is the one that I would have a concern about
21 sliding where they position their pipe in that original.
22 And if you go just to underneath 176, that's the wet
23 spot that I'm describing that oozes on any wet year, any
24 year that's got any moisture. If you proceed to the
25 west end of that field, that's a very steep hill that

1 runs up that they're going to have to go right up and
2 over. And I have concern that after they rip the soil
3 up and put it back down and try to re-seed it, that hill
4 will probably erode for perpetuity.

5 Q. Got it.

6 And then on page 3 of Exhibit 37, was that a
7 second potential least-worst option? Does that -- would
8 that supplant or replace page 2 if possible?

9 A. Well, the distinction between page 2 and page 3
10 is page 2, if you jump on -- we have the west half of
11 section 11. The east half of section 11 is owned by --
12 owned by -- was owned by my dad's cousin who is now
13 passed away and has been inherited by her husband. And
14 we rent that land. And, again, my fear of having to
15 drive over these fields with that pipe under it, I
16 marked that up such that the pipe would go around the
17 north end of the field on the land that we rent, my
18 dad's cousin's land, my great grandfather's original
19 homesteaded land. So if you go to page 3, it's -- it's
20 almost the same layout on our property other than I
21 brought it back down on the right-hand corner where they
22 originally proposed.

23 Q. And, Jon, to understand page 3, there are you
24 suggesting that your reroute on page 2 as found in
25 section 12 and the western portion of section 11, that

1 there would be no route -- no route on those parcels,
2 those eastern parcels there?

3 A. No reroute.

4 Q. Okay. Got it. All right.

5 Now I'm going -- to make this more confusing
6 with all these maps, I'm going to ask Mr. Leibel to show
7 you the Summit map from yesterday afternoon, and I'm
8 sorry to put you on the spot, but we just got this. And
9 I believe this will become an exhibit later in the day
10 or maybe it's being filed, I don't know. But take a
11 moment to kind of soak that in and then talk through if
12 -- if you think that alleviates the soil, the hydrology,
13 the slope, the terrain, the other type of easements and
14 utilities. Does that resolve those concerns on a
15 least-worst option or are they still present?

16 A. They are still present, just different locations
17 but similar. This reroute -- or this image here is very
18 similar to on page 3 --

19 MR. PELHAM: Excuse me. We need to know which
20 document we're talking about specifically.

21 MR. JORDE: Yeah, I -- yep. So it's attached to
22 the email that I think it was Mr. Gludt sent yesterday.
23 It's page 14 of the Boeshans' new rebuttal testimony.
24 So I'm certainly not going to offer his rebuttal
25 testimony, but if you want to reference page 14 and then

1 we can have this marked as a separate exhibit, just this
2 page, and get that recirculated.

3 MR. PELHAM: Thank you.

4 MR. JORDE: Yep. So page 14 of the rebuttal of
5 Mr. Boeshans.

6 Q. (BY MR. JORDE) So, Mr. Hagerott, just
7 continue. So the same concerns that you've discussed
8 are still present then?

9 A. Yes. And there are still water areas, potential
10 water areas, that they have to cross in this and they're
11 now closer to all the debris that's scattered on that
12 property. They're adjacent to a hill that's very steep
13 on that reroute. And I believe they may be crossing the
14 same areas that had these historic wagon trails,
15 roadways, and the Native American campground areas.

16 And then, you know, there's -- there is some
17 disagreement within our own family members whether it's
18 better to destroy the ground under a farmland or where
19 the grass is for the cattle. So it's a no-win situation
20 for us no matter where you put it.

21 Q. Now, I, again, kind of begged you to come up
22 with a potential reroute, and we're looking at a
23 variation of that here, but I mean what you're looking
24 for is this to avoid your property based on all the
25 concerns and the historic and cultural resource,

1 etcetera; is that right?

2 A. That's correct. I would reiterate if Summit
3 would have actually used landmen to navigate this path,
4 I think they would have found a hundred percent success
5 in Morton County.

6 Q. And do you believe that there are infinite
7 numbers of other potential paths and zigs and zags that
8 Summit could do right now today to move this off of the
9 Hagerott land?

10 A. Yes. The obvious choice here would be to move
11 farther north of Bismarck in that whole area and run
12 straight west toward Center. It would avoid all of this
13 that they're fighting right now with their attorneys.

14 Q. All right. I don't want to cut you short, but
15 anything else that you think is important relative to
16 the land itself, challenges, negative economic impacts,
17 the prohibition against development, just the headache,
18 those kinds of things that you haven't shared?

19 A. All the above. Yes. The taking of our property
20 is another massive concern of ours. I see no benefit to
21 our family or our heirs in any of this. And it's
22 exposing us and our heirs or whoever owns this in the
23 future for a 99-year lease -- or easement for what --
24 what in their letter was a very small monetary offer.
25 They gave us -- I believe this was the first offer they

1 sent in a letter to me, was they were going to pay us
2 \$2.62 a foot --

3 MR. GLUDT: I'm going to object, Your Honor.
4 We're talking about easement offers and private easement
5 negotiations. This isn't relevant to the Commission's
6 decision.

7 ALJ HOGAN: Yeah, I'm going to sustain the
8 objection.

9 Mr. Hagerott, the Public Service Commission
10 doesn't have any jurisdiction over contract negotiations
11 or the eminent domain aspect of this project.

12 Q. (BY MR. JORDE) So let me ask it to you this
13 way without getting into the exact dollar figures.
14 Based on the route that's being analyzed by the PSC and
15 proposed, you do not have any confidence that, for all
16 the challenges to your land, that you will be
17 economically compensated such to justify this route on
18 your property; is that correct?

19 A. That is correct.

20 Q. And --

21 A. I wanted to just -- I just wanted to highlight
22 in 1950-ish my grandfather was given a dollar a foot.
23 So this number that they put on this form, I won't say
24 the number, was ludicrously low. When I run the math,
25 and from what I've heard in news and publications that

1 they're going to push 18 million tons of this CO2
2 through this 24-inch pipe on our land a year, and if you
3 take that \$85 tax credit per ton and you divide that by
4 the number of miles in their pipe -- or their pipeline
5 systems, I came up with a number of 700,000 something.
6 Maybe I'm off by some rounding there. Could be 500 to
7 800,000. I didn't do any specific, close, detailed
8 calculation. But for them to give us this substantially
9 low offer when they're going to generate that kind of
10 money on an annual basis from tax payments, it's
11 laughable.

12 Q. So before we get off of Exhibit 37, you, I
13 think, talked about some homes and your sister did as
14 well, and I failed to kind of pinpoint or get an
15 approximate distance from any of the inhabited
16 structures or structures that could be inhabited or
17 places where you're often working. Can you help us out
18 with some estimations of distances there?

19 A. Sure. On that map, from the closest point to
20 our farmstead which is just off the edge of -- the left
21 edge of that photo or that map, is where our original
22 farmstead is. And I would approximate that is a little
23 over a half a mile, somewhere between a half a mile,
24 five-eighths of a mile. We have --

25 Q. Let me just stop you there. Which section are

1 we in?

2 A. That's section 10.

3 Q. Section 10?

4 A. Yeah. And our farmyard is on the east edge of
5 section 9 just immediately to the west of this.

6 Q. Okay.

7 A. It's immediately west and slightly south, is
8 where our farmyard -- and my sister lives adjacent to
9 the original farmyard -- farmhouse that my grandfather,
10 my dad's father, developed.

11 Q. And the estimation of distances again to those
12 residences?

13 A. Yeah. I'm -- I don't have a scale here, but I
14 would say it's roughly a little over a half a mile.
15 Half a mile, three-quarters of a mile, somewhere in
16 there.

17 Q. Okay.

18 A. And if you go over into section 2, you can see a
19 farmyard there or a residence. That is one of our
20 neighbors, the Kopps (phonetic). They are, I don't
21 know, just a smidge over a half a mile away. And their
22 son lives a half a mile north of them. And I have a
23 real concern for that family that lives just some slight
24 distance to the north. The way that land forms, it
25 slopes -- from where this pipe is, it sort of slopes

1 downward and forms almost a bowl in that area. And so
2 if this CO2 ruptures anywhere in proximity to that, I
3 think -- just my understanding of how CO2 is heavier
4 than air, it could flow that way and impact them
5 seriously.

6 And on that same vein, if you go approximately
7 four miles east of where our farmyard is, it was my page
8 16, this is approximately -- approximately four miles
9 east of us, if I recall correctly, there's a real young
10 family that lives there.

11 MR. GLUDT: Your Honor, I'm going to object.
12 He's now talked about the Kopps' property and now we're
13 moving further east and he's testifying to others'
14 property. If we can keep this focused on Mr. Hagerott's
15 property, I think we can move things along.

16 MR. JORDE: Well --

17 ALJ HOGAN: I think it's appropriate, Mr. Jorde.
18 Can you have Mr. Hagerott focus on the property he owns?

19 MR. JORDE: Well, I can.

20 Q. (BY MR. JORDE) I guess I would like to clarify
21 that and leave it here, but bottom line, you're
22 concerned about essentially the voiceless that aren't on
23 the path but are near to the path that aren't confronted
24 with an easement and may not have those type of
25 contractual language; is that right?

1 A. Well, if I understand correctly, the PSC's
2 trying to ascertain the welfare of North Dakotans with
3 this proceeding. And here's a property where this
4 homeowner has a small, little subdivision lot that's
5 completely surrounded by a landowner that lives in Grand
6 Forks, North Dakota, that agreed to this. He's --
7 allegedly. And I just have a fear for their safety if
8 something happened.

9 Q. Understood. All right.

10 And then if we continue to move on then,
11 anything particularly else about the land in question
12 that you want to share?

13 A. Yeah. I'll reiterate that there is just no
14 guarantee that this pipe will not burst on our property.
15 And if it does, it would present substantial risk to our
16 health and our neighbors and our cattle and our
17 neighbors' cattle.

18 And along with that, I mean in the bigger
19 picture of this, I have a real concern with terrorism
20 associated with this. It's obvious Summit knows that
21 this line is dangerous being they don't want to release
22 their plume study under the guise of terrorism. And I
23 picture this as a greenwashing project if there's ever
24 been one, making these companies in Iowa and somehow or
25 another, throwing tax dollars at them to make their

1 issue go away, I see domestic terrorism being a
2 substantial risk with all the people that are
3 anti-taxation, anti-liberal, anti-climate change. I
4 mean, I can easily envision somebody getting -- you
5 know, the route will be well marked; it will have to
6 be -- grabbing a shovel and digging a hole, dropping a
7 bag of charcoal briquets in there and a little lighter
8 fluid and heating that up. Steel gets a little warm,
9 you get 300, 600 degrees steel and it just turns into
10 goo.

11 Q. So let me stop you there for a second. So you
12 understand that Summit has prevented us for a couple
13 years now from obtaining any dispersion modeling,
14 dispersion analysis in North Dakota under the guise of
15 terrorism, but your concern is, if it's that dangerous,
16 why are they even considering it?

17 A. Exactly.

18 Q. Okay.

19 A. Exactly. I mean, I can envision pure chaos
20 occurring in the denser residential areas, prime
21 opportunity for chaos to be created if you can make this
22 thing rupture.

23 Q. Now, Jon, I'm going to see if -- I don't know if
24 Mr. Leibel's been able to get your photos marked, but
25 our next exhibit would be 55. And I would like to offer

1 those 22 pages of your photos from the blue folder as
2 Exhibit 55.

3 ALJ HOGAN: Any objection, Mr. Gludt?

4 MR. GLUDT: No objection, Your Honor.

5 ALJ HOGAN: Mr. Pelham.

6 MR. PELHAM: Just to be clear, these are all of
7 the -- all pages in the blue folder or just the first 22
8 pages?

9 THE WITNESS: I have yet to talk about the
10 remaining pictures.

11 MR. PELHAM: That's why I'm asking, Mr. Jorde.
12 I'm not sure what's being admitted --

13 MR. JORDE: Well, that's a great question. I've
14 got 22 pages of documents that is our Exhibit 55 that I
15 understood were the -- was the contents of the blue
16 folder and so I'm offering all of those contents, all 22
17 pages.

18 MR. PELHAM: The bulk of it is the photos, but
19 there's some letters. There's an obituary, it
20 appears --

21 THE WITNESS: The last pages are all tied
22 together in my final piece of testimony.

23 MR. PELHAM: I just want to be clear what it is
24 we're actually admitting here.

25 MR. JORDE: Yeah. It's Exhibit 55, everything

1 that is in there, which are everything in that blue
2 folder is Exhibit 55.

3 MR. PELHAM: I don't have any objection. Thank
4 you.

5 ALJ HOGAN: All right. Exhibit 55 will be
6 admitted. I don't have a copy of it. I'm going to need
7 a copy of 55 for the official record.

8 MR. JORDE: Yep. My crack team there is working
9 on that.

10 ALJ HOGAN: And I'll just ask, Mr. Jorde, do you
11 have a lot more questions for Mr. Hagerott, because I'm
12 thinking we should take our morning break. It's getting
13 close to 11:00.

14 MR. JORDE: Why don't we break and then we can
15 kind of tighten this up and put a bow on his testimony
16 here when we get back?

17 ALJ HOGAN: All right. Let's take our morning
18 break. Let's reconvene at 11:05.

19 (Recess)

20 ALJ HOGAN: All right. My watch shows 11:05 and
21 it looks like we have everybody back. So you can
22 continue, Mr. Jorde.

23 MR. JORDE: Thank you.

24 And just a little cleanup here, we've gotten
25 that -- the blue folder, Exhibit 55, into evidence and I

1 just want to also offer what will be Exhibit 56, and
2 that is page 14 of the Wade Boeshans rebuttal testimony.
3 It's simply the map of the Hagerott property. And we'll
4 have that emailed around, but I need to formally offer
5 that one page.

6 ALJ HOGAN: Any objection?

7 MR. GLUDT: No objection, Your Honor.

8 ALJ HOGAN: Mr. Pelham.

9 MR. PELHAM: No objection.

10 ALJ HOGAN: All right. I'll need a hard copy of
11 that as well, Mr. Jorde, but Landowner 56 is received.

12 MR. JORDE: Thank you.

13 And then, similarly, Ms. Olson held up the
14 family photos and we're in the process of getting copies
15 made, but before I leave I want to offer Exhibit 57
16 which would be the photos that she held up there during
17 her testimony.

18 ALJ HOGAN: Any objection, Mr. Gludt?

19 MR. GLUDT: No objection.

20 ALJ HOGAN: Mr. Pelham.

21 MR. PELHAM: No objection.

22 ALJ HOGAN: 57 is received.

23 MR. JORDE: All right. Thank you very much.

24 And we will get a hard copy of that also to you.

25 Q. (BY MR. JORDE) Okay, sir, we had a little

1 break. I know we've covered a lot of ground, but do you
2 think, if it's possible to do your best to kind of sum
3 up and, I guess, address any remaining concerns that we
4 haven't touched on?

5 A. Yes. I just have two more topics briefly that I
6 want to touch on and then I'll be concluded.

7 Q. Okay.

8 A. The first one here remaining is that this has
9 taken a tremendous toll on our family. The cost has
10 been tremendous. The legal bills for something we
11 didn't ask for have -- have been substantial.

12 UNIDENTIFIED SPEAKER: Is your microphone on?

13 THE WITNESS: It's blue.

14 UNIDENTIFIED SPEAKER: Okay.

15 ALJ HOGAN: Why don't you pull it a little
16 closer? There you go. Thank you.

17 THE WITNESS: Okay.

18 A. It's taken a tremendous amount of our time and
19 it's added a tremendous toll on our mental health. The
20 stress of this is incredible.

21 And I want to conclude with that, that my mom --
22 this is going to be hard. My mom owned -- while my mom
23 was alive, she owned land north of Bismarck. That was
24 land that her grandfather developed to farm. Her father
25 farmed it, and my father and she farmed it. I helped

1 them as a young boy. One of my summer jobs when I was
2 young was to work the summer fallow. At that time we
3 would fallow every other field. I was out there three,
4 four times in the summer running the chisel plow. And I
5 have fond memories of being there with my family.

6 Well, on January 31st my mom received a letter
7 from Summit saying they wanted to go across her property
8 with this pipeline. And that's the page 20. She
9 received another one in I believe it was March. I
10 didn't include it. And she received another one in
11 April. That's page 21. I included the maps that they
12 have here for where they wanted to go across her
13 property. And this is extremely valuable farmland.
14 Extremely valuable development land for somebody in the
15 future. It will never be developed under my purview.

16 My mom had conversations with other neighbors
17 out there in that area. She never spoke directly with
18 Summit. All they did was send those three packets of
19 letters. But her conversations with the folks around
20 her out there said, "It's not negotiable. They're
21 telling us they're just going to come through, accept
22 the money because they're going to build it."

23 My mom was unable to sleep. She was incredibly
24 stressed by this. She would come out and tell my dad or
25 -- and me at various times during this time frame, she

1 goes, "I'm just so upset. How can they do this?" And
2 she goes, "I think I'm going to have a heart attack." I
3 tried to console her. I would tell her things like, you
4 know, the City of Bismarck, Burleigh County, State of
5 North Dakota, there is no possible way they're going to
6 let this company jam that pipeline right through
7 Bismarck like that.

8 Well, the last page of my folder is my mom's
9 obituary because she died of heart failure on July 6th.
10 And I fully -- fully believe with my entire being that
11 the stress that they put on my mom by doing this caused
12 her to have that heart failure.

13 So I just want to conclude that Summit's
14 behavior has had real consequences on the welfare of our
15 family and, I'm sure, countless others. And I want to
16 conclude with I pray -- I pray that the PSC finds enough
17 evidence in their hearings and their review to deny
18 Summit's permit. You are the last hope we all have of
19 preserving the welfare of everyone in North Dakota and
20 the sanctity of the land of all of North Dakota. Thank
21 you.

22 Q. Thank you, sir. I don't have anything further.
23 You may have some questions from others.

24 ALJ HOGAN: Mr. Gludt, any questions?

25 MR. GLUDT: Yes, Your Honor, just briefly.

CROSS EXAMINATION

BY MR. GLUDT:

Q. Good morning, Mr. Hagerott. Are you aware that Summit has secured voluntary easements for approximately 91 percent of the current route in Morton County?

A. I'm aware that the easement -- yeah, the easements in North Dakota are substantial.

Q. Are you aware that the approximately 9 percent remaining easement acquisition in Morton County consists of two landowners, yourself and Mr. Malloy?

A. I can't speak to Malloy, but I know that we are.

Q. And are you aware that Mr. Malloy's also represented by Mr. Jorde?

A. I believe he is.

MR. GLUDT: I have no further questions.

ALJ HOGAN: Mr. Pelham, any questions?

MR. PELHAM: I don't. Thank you.

ALJ HOGAN: Mr. Phillips, any questions?

MR. PHILLIPS: No, Your Honor.

ALJ HOGAN: Commissioner Christmann.

COMMISSIONER CHRISTMANN: What Mr. Jorde submitted into evidence, that is a page out of a Summit filing that's come in this afternoon apparently, you saw that, didn't you?

THE WITNESS: Uh-huh.

1 COMMISSIONER CHRISTMANN: Okay. Is that the
2 same as one of the two, I think Mr. Jorde referred to
3 them as "least-best recommendations" that you sent?

4 THE WITNESS: It's very close proximity, yes.

5 COMMISSIONER CHRISTMANN: The one that contains
6 it to your property as opposed to the one to the east of
7 you. That was the only clarification that I had.

8 Thank you for being here.

9 ALJ HOGAN: Commissioner Haugen-Hoffart.

10 COMMISSIONER HAUGEN-HOFFART: Jonathan, thank
11 you for your detailed information. I have no questions
12 for you.

13 ALJ HOGAN: Mr. Dawson.

14 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
15 Thank you for your time.

16 ALJ HOGAN: Any redirect, Mr. Jorde?

17 MR. JORDE: Yes.

18 REDIRECT EXAMINATION

19 BY MR. JORDE:

20 Q. Mr. Gludt made an excellent point. He stated
21 that in Morton County 91 percent of -- well, quote,
22 "voluntary easements" have been obtained. And isn't
23 that the exact point you were making, that you're sure
24 if they just talked to other folks, they could get to a
25 hundred percent in Morton County? Correct?

1 A. Absolutely.

2 Q. And for some reason they persist with apparently
3 the two persons that feel strongly enough about this to
4 come here and speak out and invest some time and
5 resources to be against it; correct?

6 A. Correct.

7 Q. Thank you. I don't have anything further, sir.
8 Appreciate your testimony.

9 ALJ HOGAN: Mr. Gludt, any other questions?

10 MR. GLUDT: No, Your Honor.

11 ALJ HOGAN: Mr. Pelham.

12 MR. PELHAM: No.

13 ALJ HOGAN: Mr. Phillips.

14 MR. PHILLIPS: No.

15 ALJ HOGAN: Commissioner Christmann.

16 COMMISSIONER CHRISTMANN: Yes. This map that
17 was toward the back of this blue handout of your
18 mother's property, is that the original route that was
19 proposed or is that the current route that's proposed?

20 THE WITNESS: It's not the current route. I
21 don't know what version, iteration of their routes it
22 would have been, but it's not the current route.

23 COMMISSIONER CHRISTMANN: The route that was --
24 this newest route that came out, I think, in January,
25 it's not on that --

1 THE WITNESS: It's not, no. They moved it
2 farther north from here.

3 COMMISSIONER CHRISTMANN: Okay. Thank you.

4 THE WITNESS: After my mother passed away, that
5 latest reroute.

6 ALJ HOGAN: All right. That's all the questions
7 for you, Mr. Hagerott.

8 And I think I was told I can have your copy of
9 that blue folder. Thank you, Mr. Leibel.

10 All right. Mr. Jorde, any other witnesses?

11 MR. JORDE: Well, I don't think he's there, but
12 since I can't see, I would just ask if Leon Mallberg
13 (phonetic) came today. I don't think so, but I want to
14 make sure he didn't sneak in.

15 ALJ HOGAN: I don't see anybody standing up
16 so --

17 MR. JORDE: Okay. No volunteers. All right.
18 Then that is my -- that is my last witness.

19 As I stated last week, I do have one clean-up
20 thing that I communicated with Mr. Dublinske, and that
21 is rather than calling Mr. Rockstad, his sister had
22 testified, rather than calling him, I would just offer
23 Exhibit 2 which is the letter that we already have in
24 evidence from Mr. Boeshans responding to, and that was
25 the one remaining landowner letter of folks who have

1 testified previously that didn't get in. So I offer
2 Landowner Exhibit 2.

3 ALJ HOGAN: Any objection?

4 MR. DUBLINSKE: No objection, Your Honor.

5 ALJ HOGAN: Mr. Pelham.

6 MR. PELHAM: No objection.

7 ALJ HOGAN: All right. Landowner Exhibit 2 is
8 received.

9 MR. JORDE: And, with that, no more witnesses
10 for today that we're going to call in our case, Your
11 Honor.

12 ALJ HOGAN: All right. Then I will turn back to
13 Summit. It's my understanding you have some rebuttal
14 witnesses you want to call.

15 MR. DUBLINSKE: We do, Your Honor. Summit would
16 call its first rebuttal witness, Alex Lange.

17 ALJ HOGAN: Good morning, Mr. Lange. I'll have
18 you start by stating your full name for the record and
19 spelling your last name.

20 ALEX LANGE: Alexander Daniel Lange, L-A-N-G-E.

21 ALJ HOGAN: Mr. Lange, were you in the room this
22 morning when I went through the penalties for perjury?

23 ALEX LANGE: I was.

24 ALJ HOGAN: And do you understand what perjury
25 is?

1 ALEX LANGE: I do.

2 ALJ HOGAN: And being advised of the potential
3 penalties for perjury, do you promise to tell the truth
4 in this case today?

5 ALEX LANGE: I do.

6 ALJ HOGAN: All right. Thank you.

7 Go ahead, Mr. Dublinske.

8 MR. DUBLINSKE: Thank you, Your Honor.

9 **ALEX LANGE,**
10 being first duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. DUBLINSKE:

14 Q. Mr. Lange, you have not previously testified in
15 this matter; correct?

16 A. That is correct.

17 Q. Over the weekend, did you cause to be prefiled
18 some written rebuttal testimony?

19 A. I did.

20 Q. And that testimony is intended to speed up your
21 rebuttal to information that had come in prior to this
22 weekend. Is that fair?

23 A. That is correct.

24 Q. And if I asked you the questions in that
25 prefiled testimony on the stand today, would your

1 answers be substantially similar?

2 A. That's correct.

3 Q. Given the timing on this, I just want to briefly
4 sort of summarize without getting too repetitive of what
5 you prefiled, is it -- were you aware that at the
6 April 20 -- sorry -- yeah, April 22nd hearing in
7 Bismarck, that information was provided about meetings
8 with emergency responders and that information made
9 reference to dispersion presentations?

10 A. That is correct.

11 Q. And you're aware that at that meeting
12 commissioners asked for additional information about
13 what exactly that was referring to?

14 A. That is correct.

15 Q. And that there were requests for additional
16 information on the nature of meetings, what meetings had
17 taken place, with whom they had taken place, when they
18 had taken place, that sort of thing?

19 A. That's my understanding.

20 Q. Is it generally the purpose of your prefiled
21 testimony to address and provide additional information
22 in response to that line of questions?

23 A. That is correct.

24 Q. And that testimony talks about the nature of
25 those meetings; correct?

1 A. That's correct.

2 Q. But it does not provide in your written
3 testimony what has been considered confidential
4 information, the specific inputs or outputs of any
5 dispersion modeling; correct?

6 A. Correct.

7 Q. And you have an attachment that lists all of the
8 persons that attended those meetings; is that correct?

9 A. That is correct.

10 Q. Now if we go to page 3 of your rebuttal
11 testimony, I believe there's a table there that lists
12 the meetings that have been held and the dates; is that
13 correct?

14 A. That is correct.

15 Q. And if I count those, I count 11. In the
16 paragraph that introduces that, I believe you say you
17 made 10 presentations. Have you, in fact, been involved
18 in all of the 11 listed presentations?

19 A. I was the presenter at those presentations.

20 There is another clarification. There are
21 really 12 presentations in total. Although the McIntosh
22 and Logan County meeting on May 15th was extended to
23 Logan County individuals, the emergency manager, for
24 reasons I'm not aware of, was unable to make that at the
25 last minute and so we did set up a one-on-one meeting in

1 our Bismarck office on May 16th with the Logan County
2 emergency manager. And so if you split that, in total
3 there would be 12 meetings.

4 Q. So the reference to 10 in line 8 is just a typo?

5 A. That's correct.

6 Q. Are there any other corrections to your
7 testimony that we need to make before we go any further
8 this morning?

9 A. No.

10 MR. DUBLINSKE: Your Honor, I would move
11 admission of the rebuttal testimony and then I will also
12 have some additional questions for the witness, but I
13 want to stop there because it's going to change
14 subjects.

15 ALJ HOGAN: Do you want to mark that as an
16 exhibit? I think the other testimony was marked with
17 exhibit numbers.

18 MR. DUBLINSKE: I believe that's correct. Let
19 me see what number we're up to here. It would be R --

20 ALJ HOGAN: I have 17 as the last one.

21 MR. DUBLINSKE: That's what we show too so --

22 ALJ HOGAN: Okay. So this would be 18.

23 MR. DUBLINSKE: R-18.

24 ALJ HOGAN: All right. Any objection,
25 Mr. Pelham?

1 MR. PELHAM: No objection.

2 ALJ HOGAN: Mr. Phillips.

3 MR. PHILLIPS: No objection.

4 ALJ HOGAN: And Mr. Jorde.

5 MR. JORDE: Yes, objection. It's inappropriate
6 rebuttal. It's not responding to something that
7 couldn't have reasonably been anticipated. And then
8 further objection as to -- well, relevance and
9 foundation and basically they're now being able to
10 bolster and defend the secret information that we don't
11 have while at the same time maintaining its alleged
12 confidentiality and we think that's patently unfair as
13 we can't respond to this. So those would be my
14 objections.

15 ALJ HOGAN: All right. The objections are
16 noted, but I am going to admit SCS 18.

17 MR. DUBLINSKE: Thank you, Your Honor.

18 Q. (BY MR. DUBLINSKE) Mr. Lange, you had
19 mentioned that the prefiled testimony addresses
20 information that was known prior to when it was filed
21 this weekend. Were you also in the room this morning
22 when Ms. Elkins testified?

23 A. I was.

24 Q. And part of her testimony involved geological
25 concerns. Were you involved with the interaction that

1 Summit has had with the North Dakota State Geologist?

2 A. I was.

3 Q. And based on your expertise and experience in
4 working through those geological issues, do you have any
5 responses you'd like to make to Ms. Elkins?

6 A. Sure. I know that overall through these
7 hearings there's been a significant amount of testimony
8 regarding geohazards and there have been exhibits also
9 submitted from the North Dakota Geological Survey and so
10 I won't rehash everything that we've talked about but
11 just kind of give it a summary of what has occurred.

12 And so really geohazards, on June 2nd, 2022,
13 PHMSA issued an advisory bulletin specific to geohazards
14 and the risks associated with geohazards and how
15 pipeline companies and operators can design around
16 geohazards and ultimately monitor those geohazards. And
17 so that's the basis for how Summit devised its geohazard
18 assessment plan.

19 We then contracted a number of geologist
20 companies, Terracon and Geosyntec, and starting in March
21 -- not March, sorry. In August of 2022 is when we
22 started looking at things like lateral migration and
23 scour of rivers. And so in August of 2022 is when we
24 received a report from our geologists regarding the
25 scour and lateral migration specifically of the Missouri

1 River. And then as was talked about in the --
2 Ms. Elkins' testimony, based on those results from those
3 reports, we did design the pipeline such that the drill
4 would be 49 feet underneath the bottom of that -- the
5 lowest part of the Missouri River. So that's one aspect
6 of it.

7 Another is that in the testimony this morning,
8 from my memory, there was a comment that our geohazards
9 really only identified those identified through the
10 North Dakota Geological Survey. And that's not
11 necessarily an accurate representation of the geohazard
12 analyses we'd done. And so slope and the percentage of
13 slope of lands that we cross is absolutely part of our
14 geohazard analysis.

15 I think if you go back to -- and I know it's in
16 the docket somewhere, I don't know the exact filing
17 number, but my initial letter to Ed Murphy of the North
18 Dakota Geologic Survey identified that we had an
19 additional callout in regards to geohazards that the
20 North Dakota -- I guess NDGS did not identify and that
21 was one based off of slope. And so that's been an
22 aspect of our geohazard analysis.

23 And then over the 12 months starting, roughly,
24 the first week of March 2023 and concluding with Ed
25 Murphy's latest letter, March 2024, we've met with Ed

1 and his team a number of times to talk through
2 geohazards specifically around landslides, presenting
3 them information on how do we complete Phase II
4 analyses, what do those look like? And so that's just
5 kind of a brief recap.

6 And then, in closing, one of the things that the
7 PHMSA letter also -- or the PHMSA advisory talks about
8 is how do you monitor geohazards. Because geohazards
9 don't just end as soon as construction and the
10 engineering side is done. And so one of the things we
11 plan to do is we'll run what's called an "IMU tool."
12 It's an inertial measurement unit. And so that tool
13 allows you as the pipeline operator to get things --
14 really geospatial data on where does your pipeline sit?
15 And then as we continue to run smart tools in the future
16 as part of our integrity management program, we can map
17 how that pipeline's moving over time, if there are
18 additional landslides or whatever else may -- may crop
19 up.

20 So I'll leave it there.

21 Q. So you covered a lot of things. I just want to
22 break that down and confirm a couple things. Is it your
23 understanding that Summit has addressed the State
24 geologist's concerns to his office's satisfaction?

25 A. Yes.

1 Q. And to address specifically an issue that
2 Ms. Elkins talked about this morning, am I correct that
3 Summit has undertaken a Missouri River crossing scour
4 analysis?

5 A. That is correct.

6 Q. Do you happen to know whether that's been
7 admitted in the docket?

8 A. I do not know.

9 Q. In fact, there are numerous pipelines and have
10 been for decades that cross the Missouri River; correct?

11 A. That's correct.

12 Q. I want to switch subjects because she also
13 talked a little bit about source water. Are there PHMSA
14 rules that Summit is required to follow that
15 specifically address drinking water?

16 A. That is correct.

17 Q. And what rule is that?

18 A. Yeah. Under Part 195, specifically 450 is the
19 definitions for high consequence areas. There's four
20 different types of high consequence areas associated
21 with pipeline design. One of those is labeled as
22 unusually sensitive areas, sometimes referenced as
23 "USAs." That points to a definition under 195.6, lists
24 a number of different criteria for an unusually
25 sensitive area. Once again, one of those is drinking

1 water resources, drinking water supplies, in addition to
2 things like critically endangered species, things along
3 those lines.

4 And so PHMSA does have regulations regarding
5 potential impacts for pipelines that could affect high
6 consequence areas in which drinking water resources
7 would be included.

8 MR. DUBLINSKE: We have nothing further at this
9 time, Your Honor.

10 ALJ HOGAN: Mr. Pelham, any questions?

11 CROSS EXAMINATION

12 BY MR. PELHAM:

13 Q. Sir, I'm wondering if you can address some
14 testimony that took place last week. A witness
15 testified as to the extreme nature of North Dakota's
16 winters and the cold and the potential impact of extreme
17 cold potentially causing brittle fractures in main line
18 valves that are above surface. Are you -- did you hear
19 that testimony?

20 A. Yes. I heard parts of it.

21 Q. Has Summit -- what has Summit done to address
22 the potential for that?

23 A. Yeah. As part of the federal regulations,
24 pipeline operators have to account for fracture control
25 generally. And so part of that fracture control is

1 brittle fracture control. And so the way that pipeline
2 companies address brittle fracture control is that, as
3 part of your material selection, you really want to
4 define what's called a "minimum design temperature" such
5 that your brittle to ductile transition regime, that
6 you're operating in that ductile area for the metals.
7 And so when you look at that, that's done by, as I
8 mentioned, specifying a minimum design temperature.

9 And so when we look at our above-ground
10 facilities in North Dakota, we've defined that at
11 negative 50 degrees Fahrenheit to account for colder
12 climates. I know it was discussed about differences
13 between North Dakota and Texas, and Texas, that could be
14 closer to 32 degrees Fahrenheit, and so significant
15 changes there.

16 And so when it comes to how do we validate that
17 our pipe actually meets this negative 50-degree design
18 criteria, is that's done through an API standard, it's
19 API 5L, and more specifically they do what's called
20 "drop weight tear testing." And so what they're doing
21 is that they expose that material to a significantly
22 cold temperature, they measure the shear percentage of
23 that steel and validate that, independent of
24 temperatures, you're operating in the ductile region for
25 your design temperature.

1 And so when we work with the steel mills and the
2 pipe mills, they'll be picking material specifications
3 that put us in that ductile region up to, I guess,
4 negative 50 degrees and higher.

5 Q. And in that, when you say "negative 50," I mean
6 some of the testimony related to windchill. Are you
7 able to provide any context as to the impact of
8 windchill? Is that negative 50 windchill or negative 50
9 actual?

10 A. That would be negative 50 actual, but you do
11 have to remember that these above-ground facilities do
12 have fluid flowing through them. And so ground
13 temperatures are significantly warmer than that.
14 They'll be generally in the 20 to 30 degrees Fahrenheit
15 range based on our depth. And so that pipe would be, in
16 reality, closer to 20 to 30 degrees Fahrenheit based on
17 flowing conditions.

18 Q. Thank you, sir. I don't have any other
19 questions.

20 ALJ HOGAN: Mr. Schock, any questions?

21 CROSS EXAMINATION

22 BY MR. SCHOCK:

23 Q. I just want to go a little bit further. So you
24 were talking about the temperature rating of the pipe.
25 So is that pipe that would only be the above-ground

1 portions or the entirety of the pipeline in North
2 Dakota?

3 A. That would be the above-ground portions.

4 Q. Okay.

5 A. And so there would be a transition point as it
6 got to that four-foot depth of cover, the main line pipe
7 will be -- would be negative 5C or 23 degrees
8 Fahrenheit.

9 Q. Okay. That's exactly what I needed. Thank you.
10 Nothing further.

11 ALJ HOGAN: All right. And is it Mr. Phillips
12 or Mr. Jorde going first? I don't know if you guys
13 discussed it.

14 MR. JORDE: I've got several questions. I'm
15 happy to go first.

16 MR. PHILLIPS: We haven't talked about it, but
17 that's just fine if he goes first.

18 ALJ HOGAN: All right. Go ahead, Mr. Jorde.

19 MR. JORDE: Okay. Thank you.

20 CROSS EXAMINATION

21 BY MR. JORDE:

22 Q. Now you're the -- what did it say? You're
23 director of engineering. How many other carbon dioxide
24 pipelines that intend to transport CO2 in a
25 supercritical state have you been the director of

1 engineering for previously?

2 A. Summit is the first.

3 Q. And you talk about the purpose of dispersion
4 analysis presentations on page 4 of your rebuttal
5 testimony, and you lead with "to provide foundational
6 information regarding dispersion modeling." Tell me all
7 the foundational information regarding dispersion
8 modeling that was shared.

9 MR. DUBLINSKE: Objection, Your Honor. That is
10 asking for the content of the confidential information.

11 ALJ HOGAN: I guess maybe I don't understand
12 what your question is, Mr. Jorde. Could you rephrase?

13 MR. JORDE: Sure, I'll try.

14 On line 2, page 4, he answers the question "What
15 was the purpose of the dispersion analysis
16 presentations?" And then in line 2 to 3 he talks about
17 providing emergency responders with, quote,
18 "foundational information regarding dispersion
19 modeling." And I want to know everything that that
20 consists of.

21 MR. DUBLINSKE: And, Your Honor, that paragraph
22 is giving an overview of exactly what's in the slide
23 presentation. That's precisely what's confidential.

24 ALJ HOGAN: Mr. Pelham, any thoughts on this
25 line of questioning?

1 MR. PELHAM: Well, as I've said before, the
2 Commission's protective order is what it is, but, you
3 know, I don't know if the witness can answer in
4 generalities as to the general statements that were made
5 as to what the response was, but it would seem to me
6 that there would be some ability to question the witness
7 on this area. I don't -- as to the specifics, though,
8 as to the specifics as to the actual dispersion
9 modeling, that has been deemed to be confidential by the
10 Commission.

11 ALJ HOGAN: I guess if the question can be
12 answered in a general nature without disclosing what has
13 been deemed or falls under the Commission's protective
14 order, you can provide that information. Otherwise, I
15 would sustain the objection because we've already
16 discussed there's a pending motion to revisit that
17 protective order, and until that analysis has been made,
18 that order does stand and protect that information.

19 MR. JORDE: So, Your Honor, I don't want
20 general. So if I'm being sustained, so be it, but I
21 want specifically exactly what was shared related to
22 that, and I'm going to walk through each one of these.
23 And so if they're sustained, they're sustained, but I
24 don't want general information from the rebuttal
25 witness.

1 ALJ HOGAN: Okay. Then I am sustaining the
2 objection as to the specifics because that was
3 previously determined or falls under the Commission's
4 protective order.

5 Q. (BY MR. JORDE) And, sir, then the same
6 question -- I'll just lump them together so this doesn't
7 have to get overly long -- I want you to please then
8 explain the details that you shared in these meetings as
9 to, quote, "Why dispersion modeling is used, what
10 dispersion modeling is and different methodologies for
11 performing it, the types of conditions dispersion
12 modeling accounts for, and how dispersion buffer mapping
13 compares to what actually happens when dispersion
14 occurs."

15 I'd like you to tell me the exact details of all
16 of that that you shared in these meetings.

17 MR. DUBLINSKE: Same objection, Your Honor.
18 It's pretty clear that this is describing at a high
19 level what the contents of the presentation materials
20 are. The presentation materials have already been held
21 to be confidential under the protective order.

22 You know, again, we're in a difficult spot
23 because we're trying to stay on the right side of the
24 protective order while also providing information that
25 was specifically requested and asked about by the

1 Commission on April 22nd. I think this is similar to
2 several rulings Your Honor has made that the important
3 piece here is that these meetings are happening and that
4 the Commission have a sense that they're genuinely
5 happening and what's happening at them, but at some
6 point you cross over into safety which is no longer in
7 the Commission's jurisdiction.

8 ALJ HOGAN: The objection is sustained for the
9 rationale we previously discussed.

10 Q. (BY MR. JORDE) In regards to how dispersion
11 buffering mapping compares to what actually happens, I
12 know now I'm not going to be able to get into that, but,
13 sir, can you tell me if you presented information that
14 tended to minimize or downplay Satartia, Mississippi,
15 and information related to that plume and what happened
16 there in any of these secret meetings you had?

17 A. No. We did not downplay the plume of Satartia,
18 Mississippi.

19 Q. And you then go on to say, a couple lines here,
20 your presentations were intended to begin laying the
21 groundwork for local emergency responders to understand
22 how dispersion modeling informs local emergency response
23 plans. My question is does Summit intend for the
24 affected communities to rely upon the accuracy of the
25 dispersion information Summit shared with those

1 communities' first responders?

2 A. Can you restate that question?

3 Q. Yes. Does Summit intend for the first
4 responders of the various communities to rely upon and
5 take as fact the Summit-prepared and Summit-presented
6 dispersion modeling so that they can rely on that when
7 forming their own emergency response plans within their
8 specific communities?

9 MR. DUBLINSKE: I'm going to object to the
10 extent that it calls for specific content, but I do not
11 object if the witness can generally characterize to
12 Mr. Jorde's point whether the presentation -- were the
13 intended communities to rely on the accuracy of the
14 material presented.

15 ALJ HOGAN: I understood it as a general
16 question or statement. So with that in mind, you can
17 answer.

18 A. When it comes to the emergency response planning
19 side of things with not only county emergency managers
20 but also first responders, as my written testimony
21 outlines, what we've done right now is really start to
22 lay the foundation of what will come. And so there's
23 going to be future meetings and trainings in regards to
24 what are actual response tactics, what does the
25 emergency response plan look like for those local

1 communities.

2 In regards to my role in developing those plans,
3 generally outside of my scope. May supply some
4 information that helps develop some of those plans, but
5 in regards to how the local communities will actually
6 respond is outside of my knowledge set.

7 Q. So if we can go back to the question I asked,
8 did you intend on behalf of Summit, as the Summit
9 director of engineering, that the invitees to these
10 secret meetings where you shared dispersion modeling,
11 did you intend those participants to rely upon the data
12 you shared with them? Yes or no?

13 A. I don't think it's as easy as a simple yes or
14 no. I think, at the end of the day, emergency response
15 is a collaborative effort. And so if there's additional
16 information that those first responders will want or
17 need, that's something that we would be willing to offer
18 to them.

19 Q. So you admit that the information you provided
20 should not be relied upon by the emergency managers and
21 first responders that you invited to these secret
22 meetings?

23 MR. DUBLINSKE: Objection. Obviously
24 mischaracterizes Mr. Lange's testimony.

25 MR. JORDE: Well, he hasn't answered the

1 question.

2 MR. DUBLINSKE: It does not mean that you get to
3 testify in his stead, however.

4 MR. JORDE: Well, if he would answer the
5 question, it would be great.

6 ALJ HOGAN: Can you rephrase your question,
7 Mr. Jorde?

8 MR. JORDE: I'll try for the fourth time. Yes,
9 I will, Your Honor.

10 Q. (BY MR. JORDE) Sir, I know you don't want to
11 answer this, but that's not how it works. So here's the
12 question. Did you intend for the invitees to these
13 secret meetings to rely upon the Summit information that
14 you were providing them at these meetings? Yes or no?

15 MR. DUBLINSKE: Objection, asked or answered.
16 The witness already explained that this is not a simple
17 yes or no question.

18 MR. JORDE: He didn't answer it at all.

19 ALJ HOGAN: I agree, I don't think he answered
20 the specific question. And I think there's more context
21 to it, but if you could answer a specific question.

22 A. Can you repeat it one more time?

23 Q. (BY MR. JORDE) Sir, you've been brought here
24 today to reassure the Commission of all these wonderful
25 things you've shared with first responders and all your

1 efforts, and that information is so important to you and
2 your company that you're fighting tooth and nail to keep
3 it secret and confidential. And the question is this:
4 did you on behalf of Summit intend to have the invitees
5 to these secret emergency responder meetings to rely
6 upon the Summit dispersion modeling that you shared with
7 them? Yes or no?

8 A. I think the answer would be yes.

9 Q. Okay. Thank you.

10 What is your personal background in selecting
11 input values for dispersion modeling relative to a
12 potential CO2 plume?

13 A. So Summit contracted a company called Audubon to
14 help us with dispersion modeling. And so it's, once
15 again, a somewhat collaborative effort as we talk
16 through what are the appropriate inputs based on what
17 we're trying to get for an output or what that output
18 would be. So it's a mix of system design specifications
19 as well as regional atmospheric conditions, humidity,
20 temperature, things along those lines.

21 Q. Okay. So my question was what is your personal
22 background in selecting input values for plume modeling
23 related to carbon dioxide pipelines? And if you don't
24 have any, that's fine.

25 A. Outside of Summit, I have not been a part of

1 plume modeling for CO2 pipelines.

2 Q. All right. Then you go on to state the
3 presentations explained that Summit performed dispersion
4 modeling consistent with federal regulations. What are
5 all the factors that you used to determine whether or
6 not Summit's dispersion modeling was performed
7 consistent with federal regulations? How can you make
8 that statement?

9 A. Federal regulations through 195.452, the
10 integrity management plan section, ultimately require an
11 operator to identify the risks associated with
12 pipelines. And so when it comes to CO2, the risk
13 associated with some type of inadvertent release would
14 be the vaporization of CO2 and then an associated plume
15 with that. And so as part of our regulatory
16 requirements, making sure we can identify and understand
17 risk so that we can execute the integrity management
18 plan program as prescribed by 195.452 is a federal
19 requirement.

20 Q. You're not suggesting, are you, that PHMSA has a
21 specific carbon dioxide pipeline requirement related to
22 input values or output values for dispersion modeling on
23 CO2 pipelines, are you?

24 A. Not directly other than it obviously needs to be
25 applicable to what your pipeline design is and the

1 geographical location of your pipeline.

2 Q. You were then asked how did presentation address
3 what dispersion modeling is and different methodologies
4 for performing it. I asked you about that and it was
5 sustained, the objections were sustained.

6 Are you confident in the results of the
7 dispersion modeling that were performed for Summit's
8 route including -- including potential ruptures on or
9 near my clients' land, businesses, and residences?

10 A. Yes. I'm confident with the work that Summit
11 has done for our dispersion modeling.

12 Q. And that would be across the entire footprint of
13 over 350 miles in North Dakota; correct?

14 A. That is correct.

15 Q. And by providing that information to the PSC,
16 Summit intends that the three decisionmakers here, the
17 two commissioners and Substitute Decisionmaker Dawson,
18 rely upon that model and the data you've provided them;
19 correct?

20 MR. DUBLINSKE: Objection, Your Honor. A, calls
21 for a legal conclusion as to the extent that is relevant
22 to decision criteria.

23 MR. PELHAM: I would join in that objection. I
24 think it does call for a legal conclusion.

25 ALJ HOGAN: The objection is sustained.

1 MR. JORDE: Okay. I'll try it again. I didn't
2 ask for a legal conclusion.

3 Q. (BY MR. JORDE) Sir, again, you are the
4 engineering guy, you've been brought here in rebuttal to
5 talk all about how wonderful this dispersion work was.
6 You just said you stand by it. Is it your intent as an
7 employee of Summit that the PSC rely upon the data
8 you've provided them in confidence? Yes or no?

9 A. I think that's correct, yes.

10 Q. All right. You then talk about gravity and
11 topography, but you don't have any personal background
12 in vapor dispersion relative to gravity and topography
13 other than that what you've been involved with on this
14 project; is that correct?

15 A. That is correct.

16 Q. You mention that the presentations described how
17 FLO-2D software that Summit uses to perform some
18 modeling accounts for topography. Did you provide --
19 did you provide any of these first responders any images
20 in the PowerPoint or other descriptions of outputs from
21 your FLO-2D modeling?

22 MR. DUBLINSKE: Objection to the extent that it
23 calls for materials specifically in the presentation
24 subject to the protective order. I'm fine if Mr. Lange
25 wants to give a general response.

1 ALJ HOGAN: If you can answer it in a general
2 nature, please do.

3 A. We did talk about topography and the impact that
4 could play on CO2 dispersion modeling in the
5 presentation, yes.

6 Q. (BY MR. JORDE) Are you aware that FLO-2D is
7 primarily for flooding and mudslides and not for
8 modeling supercritical CO2 from unintended releases or
9 pipeline ruptures?

10 A. I'm not aware of that.

11 Q. You described the phrase, quote, "a full
12 bore --" B-O-R-E "-- rupture," end quote. Is that your
13 way of saying the worst-case type of a rupture?

14 A. That is the worst-case release type, yes. Also
15 sometimes called a "guillotine release."

16 Q. Okay. Thank you.

17 And you say you explained dispersion buffer
18 maps. And are those maps that you provided in these
19 meetings that show various distances that a vapor plume
20 is projected to travel from the release source?

21 A. We did show maps that also overlaid the buffers,
22 yes.

23 Q. All right. And has that type of data, was that
24 included in the information that Summit provided to the
25 PSC confidentially?

1 I'm sorry, I missed your answer.

2 MR. DUBLINSKE: Yeah, we would object that
3 that's getting into the content of what was submitted to
4 the PSC and it's held under the protective order.

5 MR. JORDE: Well, to be very clear, I'm not
6 asking for values because I know that's going to get
7 sustained. I simply want to know if the buffer maps he
8 just talked -- well, he talks about -- in the rebuttal
9 testimony that you put in play here, if those maps have
10 been provided to the PSC confidentially.

11 ALJ HOGAN: I'll allow him to answer that if he
12 knows.

13 A. I don't believe so, but I'm not positive.

14 Q. (BY MR. JORDE) And you intended to share the
15 buffer maps with first responders and others in an
16 attempt to minimize their concerns about how far a plume
17 might travel based on the data you submitted to them; is
18 that correct?

19 MR. DUBLINSKE: Objection. That misstates the
20 testimony and it also, again, calls for the content of
21 the presentation.

22 ALJ HOGAN: Perhaps you can rephrase, Mr. Jorde.

23 MR. JORDE: Okay.

24 Q. (BY MR. JORDE) Did you provide the
25 Summit-generated buffer maps, which you're unsure if the

1 Commission, PSC, has or doesn't have, with the first
2 responders in an attempt or for the purpose of
3 minimizing their concerns that they had relative to how
4 far a toxic plume could travel? Yes or no.

5 A. The intention of sharing the maps is to educate
6 first responders on where a plume could potentially
7 travel.

8 Q. You mention a PowerPoint slideshow. Was the sum
9 and substance of any data provided during these meetings
10 contained within the PowerPoint slideshow or were there,
11 in addition to the slideshow, other risk analysis,
12 dispersion, toxicity, in the form of handouts or
13 physical documentation?

14 A. In some of the meetings we did offer up digital
15 versions of publicly-available information. The API CO2
16 tactical guidance is one of those items. Excerpts from
17 DOT 195 as it pertains to the regulations around
18 emergency response for pipeline operators is another
19 piece of information that was offered publicly. And
20 then also an API study for shelter-in-place as a
21 protective means. And so those three documents at a
22 minimum. And then there was a Summit-produced first
23 responders preparedness training draft. And those four
24 documents were at least offered verbally to be
25 transmitted electronically if desired. And I don't know

1 exactly which counties have received some of that.

2 Q. And so of the items that you just listed in that
3 response, were any of those deemed by Summit to be
4 confidential?

5 A. Not to my knowledge.

6 Q. Okay. You then state that you provided the
7 PowerPoint slides in question to the PSC, to the
8 Commission, and then you note that there have been
9 revisions to the presentation over time based on input
10 from emergency responders. Are you able to get into
11 what that is without violating this confidentiality
12 order?

13 A. I can try to be -- I'll be as general as
14 possible. I mean, ultimately, as I've testified to, it
15 is an educational presentation to talk through some of
16 the -- the topics of dispersion. And so as we met with
17 first responders and as they had questions, we wanted to
18 make sure that we would address those moving forward for
19 future groups that we would potentially meet with.

20 And so there were a variety of items that came
21 up during those presentations where individuals would
22 ask us questions. We knew that we had additional
23 information or studies that may help paint that picture,
24 educate them further, and so we did make revisions as we
25 continued down this process to, once again, just try and

1 improve the education process for first responders and
2 emergency managers.

3 Q. So as a part of improving that process, did that
4 include sharing additional confidential information that
5 wasn't initially contained in the PowerPoint provided to
6 the Public Service Commission?

7 A. I don't know all the ins and outs of the
8 confidential information side of things, but my
9 understanding is yes.

10 Q. Again, you then go on -- I'm on page 6 -- to
11 mention presentations addressing toxicity, and then I
12 think you previewed some of the reports you looked at.
13 And so the PSC then, if they have the PowerPoint, they
14 have the portion of your presentation that addresses the
15 toxicity of CO2 from your perspective; is that correct?

16 A. That's correct.

17 Q. And when you, on page 7, I think you again
18 highlighted some of these, subpart 3 on your answer to
19 the top of page 7 relative to toxic exposure, you
20 reference a 2022 study by a team of Dutch scientists.
21 And you're referencing there what's also known as the
22 "Shell Global Solutions International BV Study"; is that
23 correct?

24 A. I don't know it by that name. I've referenced
25 it as the "Van Der Schrier."

1 Q. Okay. Thank you. And I don't need to get into
2 that, but we've already had the expert testimony on
3 that.

4 And you're aware that that was the study where
5 the study group, the selected participants in that study
6 put on by the oil industry, were 66 healthy males ages
7 18 to 25? Are you aware of that?

8 A. I do understand the volunteers to be healthy
9 males, yes.

10 Q. Okay. And that the study then further separated
11 out anyone from -- that suffered from panic disorder,
12 hypertension, illegal drug use, present or history of
13 alcohol abuse. You understand they weeded it out to
14 find the most elite, healthy young males as they could?
15 Are you aware of that?

16 A. I'm not aware of it to that level of detail.

17 Q. Okay. Moving on, you talked that the
18 presentation, your PowerPoint, reviewed details
19 regarding two Mississippi incidents in 2007 and then the
20 Satartia in 2020, as well as Louisiana in 2024. And
21 then you reference mitigation steps.

22 Do you believe the mitigation steps taken in
23 response to each of the two Mississippi incidents and
24 the recent Louisiana incident where there were CO2
25 releases, were those reasonable mitigation steps in

1 Summit's view?

2 A. Can you rephrase that one?

3 Q. Yep. And if you want to follow along, I'm on
4 page 7, line 12. It's a question. And the question is
5 you reference mitigation steps. So you're telling these
6 -- in these secret meetings about the mitigation steps,
7 do you, on behalf of Summit, agree that the mitigation
8 steps -- your words -- were those reasonable in the two
9 Mississippi incidents and the Louisiana 2024 incident?

10 A. As I testified to earlier, PHMSA in 2022 came
11 out with the geohazard advisory bulletin and, to my
12 understanding, that is a recommendation from federal
13 regulators based on the Satartia, Mississippi, incident.
14 And so, yes, we took mitigative steps to design our
15 geohazard program around that advisory bulletin which
16 encompasses lessons learned from Satartia.

17 Q. Okay. So you're answering your own questions
18 again, sir. My question is do you believe that the
19 mitigation steps taken in Mississippi in June of 2007,
20 were those reasonable mitigation steps at that time?

21 MR. DUBLINSKE: Objection, Your Honor. I think
22 that mischaracterizes the testimony. Mr. Lange just
23 said that "mitigation steps" there refers to steps that
24 Summit took in design in response to lessons learned
25 from those prior incidents.

1 MR. JORDE: Well, I'd object to the speaking
2 objections and my question is my question. So if he can
3 just answer my question.

4 MR. DUBLINSKE: In which case it's asked and
5 answered because he just explained why the premise of
6 Mr. Jorde's question is incorrect.

7 MR. JORDE: Okay. Well, should we just try
8 again?

9 Q. (BY MR. JORDE) Let me just try again, sir.
10 And if you don't understand words I'm using, just stop
11 me, okay, so we can get through this.

12 Do you on behalf of Summit believe -- this is
13 just a yes or no question -- believe that the mitigation
14 steps taken in Mississippi in June 2007 in response to
15 that CO2 release, do you believe those were reasonable?
16 Yes or no?

17 A. Can I ask a clarification to that?

18 Q. No.

19 A. I believe that the steps Summit took from the
20 lessons learned of those incidents are reasonable. If
21 your question is going towards the operators in which
22 had those releases, I can't speak on their behalf. I
23 guess I'm -- that's where I'm misunderstanding your
24 question.

25 Q. All right. So you didn't -- in these

1 presentations, you didn't make any comment or pass any
2 judgment either way if any of the three incidents you
3 reference, if those operators took reasonable mitigation
4 steps. Is that true?

5 A. We did not discuss mitigation steps that those
6 operators would have taken, that is correct. We did
7 discuss mitigative steps we have taken in response to
8 those releases.

9 Q. Okay. All right. So that's helpful.

10 So you also then didn't provide any critique in
11 terms of mitigation steps that weren't taken but could
12 have been taken. Is that true?

13 A. We did not critique the other operators, that is
14 correct.

15 Q. You provided an Attachment B. You may -- I'm
16 sure you're aware when Mr. Powell was cross-examined I
17 asked him about the sign-in sheets. Is your Exhibit B
18 to your rebuttal testimony, is that the universe of all
19 participants at all of the meetings as you have listed?

20 A. That is my understanding. Ultimately, I was not
21 responsible for the invitees. That was generally run
22 through the county emergency manager. I simply was just
23 there to present the information.

24 Q. Did you personally prepare Attachment B? Did
25 you type it yourself?

1 A. I did not.

2 Q. And so you don't know if the person who prepared
3 that utilized the sign-in sheets or memory or some other
4 document, or can you help me with that?

5 A. I know that -- my recollection is that the
6 majority of the meetings we did have sign-in sheets and
7 that was what was generally used to derive this list.

8 Q. And did you maintain a copy of the actual
9 sign-in sheets for each of the meetings in Summit's
10 records somewhere?

11 A. I personally do not have those sign-in sheets.

12 Q. Do you know who at Summit would have those?

13 A. I do not know who kept record of those sign-in
14 sheets.

15 Q. You state that sometimes you get questions that
16 you or other Summit personnel in attendance at these
17 meetings can't respond to. You gave an example and you
18 indicated you would pose the question on toxicity -- or
19 treatment protocols to a toxicologist and get back to
20 them with an answer. Have you done that?

21 A. Yes, we have.

22 Q. All right. What -- well, okay. Probably can't
23 answer that. Okay. And tell me this: which meeting
24 was that -- did that question emanate from, if you
25 recall?

1 A. That one was specifically Cass County.

2 Q. All right. And the toxicologist that you
3 consulted was whom?

4 A. Dr. Lumpkin.

5 Q. All right. Then you talk about dispersion
6 analysis providing information regarding emergency
7 response plans. You acknowledge that communities can
8 formulate their own emergency response plans completely
9 independent or guided by Summit's emergency response
10 plan if they choose; is that correct?

11 MR. DUBLINSKE: Calls for a legal conclusion.

12 ALJ HOGAN: Are you asking for a legal
13 conclusion, Mr. Jorde, or are you asking in his opinion?

14 MR. JORDE: I don't ask any questions for a
15 legal conclusion from a non-lawyer. I mean, I'm
16 literally reading out of his testimony. And so I'm
17 curious if he has any personal idea whether or not local
18 emergency management can formulate their own emergency
19 response plans.

20 ALJ HOGAN: You can answer.

21 A. Since I personally am not responsible for
22 emergency response planning, I don't know the answer to
23 that.

24 Q. (BY MR. JORDE) Okay. So you're brought here
25 in rebuttal to talk about information you personally

1 provided related to emergency response plans. If you're
2 not the person to answer those questions, who at
3 Summit's group would be?

4 A. I think that slightly mischaracterizes my
5 testimony. My testimony is to talk about kind of the
6 foundation which emergency response planning would be
7 dispersion modeling and to talk through some of the
8 topics that we've talked through with first responders
9 and emergency managers, not necessarily to develop those
10 emergency response plans.

11 Q. So who at Summit is that person?

12 A. For emergency response planning, Dave Daum would
13 be better versed to answer questions along those lines.

14 Q. All right. Is it important to utilize
15 dispersion modeling and that risk analysis when
16 formulating emergency response plans?

17 A. I think that there would be some information or
18 topics that would be important, yes.

19 Q. And would that answer be true not only for
20 Summit, the one that PHMSA requires Summit as the
21 operator to have, but would that answer be true also
22 for, in your view, the local North Dakota response plans
23 communities may have?

24 MR. DUBLINSKE: Objection, Your Honor. The
25 witness already testified that he is unaware of whether

1 or not localities can have their own emergency response
2 plans.

3 ALJ HOGAN: I agree. The objection is
4 sustained.

5 Q. (BY MR. JORDE) Were you ever asked by anyone
6 locally if they could have their own emergency response
7 plans or if they had to only follow whatever Summit
8 decides to put out there? Were you ever asked questions
9 like that?

10 A. I have not been asked that question.

11 Q. Did anyone at these meetings from the community
12 come with their own emergency response plan or ideas
13 that they were working on and ask you questions about
14 that?

15 A. No, not to my knowledge or recollection.

16 Q. You state that you believe there's a
17 misunderstanding regarding the plume from Satartia, and
18 then you go on, on page 9 and 10, to kind of give your
19 own opinion. Would you agree that you can't speak
20 definitively about that diagram either?

21 A. I think that there are aspects of the diagram or
22 the use of that diagram that I cannot speak to
23 definitively, but there are other aspects that we can
24 talk to definitively.

25 Q. So when you say in your opinion that the

1 overwhelming majority of the area indicated would be at
2 concentrations, CO2 concentrations, below levels that
3 would cause any impacts, for you to say "any impacts,"
4 you would have to know the health profile of all of the
5 persons in that area, wouldn't you, to eliminate any
6 impact at all to a person?

7 A. I think if you look at the chart which was
8 attached -- Attachment C of my written testimony, it
9 does call out concentrations and which were mapped by
10 the National Weather Service. And so looking at those
11 concentrations, the gray region is 4.2 parts per
12 billion. And for reference, atmospheric conditions,
13 depending on exactly season -- the season and where
14 you're at, are somewhere in the 300 to 600 parts per
15 million.

16 And so from a CO2 concentration perspective,
17 this map really doesn't provide any information. It
18 simply is just showing the direction in which the wind
19 and the atmosphere conditions would take a plume but to
20 no discernable CO2 concentration levels. And so I think
21 that's the -- the intent of the map.

22 Q. Okay. So you didn't talk to PHMSA or anyone who
23 prepared the map or the report. This is your
24 interpretation; right?

25 A. It also is denoted in different aspects of the

1 page that are also highlighted.

2 Q. Right. And I just want to be clear. And,
3 again, if you could just answer my questions. You
4 didn't speak with anyone at PHMSA. Your interpretations
5 and your interpretations of the meaning and the
6 phrasing, that's your -- Mr. Lange's -- interpretations
7 alone; correct?

8 A. I did not speak with PHMSA.

9 Q. Okay. You don't dispute that first responders
10 came across persons in Satartia unresponsive,
11 unconscious, foaming at the mouth, laying on the ground,
12 cars running, people sitting in them? You don't dispute
13 any of that, do you, the eyewitness testimony?

14 A. I'm not familiar with the eyewitness testimony.
15 I do know in the Satartia incident report from PHMSA, it
16 does talk about at least one stalled-out car with three
17 individuals inside it unconscious.

18 Q. Okay. So in preparation for your -- as the
19 person charged with -- by Summit to go out and talk
20 about dispersion modeling and essentially the safety and
21 risk analysis and toxicity, you didn't bother to look at
22 or review any of the first responder and eyewitness
23 testimony in this docket related to Satartia?

24 A. We generally relied -- when we talked about the
25 Satartia, Mississippi, incident, we generally rely on

1 the PHMSA report associated with it.

2 Q. And did you say you use Quest Consultants?

3 A. We did not use Quest Consultants. Quest
4 Consultants owns -- or is the company that owns CANARY,
5 which is a vapor dispersion modeling software.

6 Q. Which was used in some of your dispersion
7 analysis; right?

8 A. We used CANARY as the software, but we did not
9 have Quest complete the dispersion modeling.

10 Q. Okay. So the entity that created the software,
11 you didn't use them to use their own software, you hired
12 a third party; right?

13 A. We hired Audubon to complete dispersion modeling
14 with CANARY, yes.

15 Q. And have you heard of computational fluid
16 dynamics? Do you know anything about CFD modeling?
17 Have you come across that?

18 A. I am familiar with CFD.

19 Q. And would you agree that in some situations the
20 simplifying assumptions made with other softwares simply
21 don't apply and that, in those cases, if you need
22 detailed analysis, for instance, you turn to
23 computational fluid dynamics?

24 A. I would disagree with that.

25 Q. Okay. And so would you disagree that

1 computational fluid dynamics is required to find
2 solutions where there are complex variables, complex
3 problems, and the simpler types of models out there,
4 even the CANARY model, is not appropriate?

5 A. Can you rephrase that?

6 Q. Yes. So do you agree or disagree that
7 computational fluid dynamics is required when you need a
8 solution to complex problems where other simpler
9 modeling software packages aren't appropriate?

10 A. I would disagree and state that CFD is not
11 required.

12 Q. Okay.

13 MR. JORDE: Mr. Leibel, did we have Exhibit 52
14 ready or printed off? If so, I'd like you to tell me
15 please and if we could pass that around.

16 ALJ HOGAN: Yep, he's passing it out right now.

17 MR. JORDE: Okay. Very good.

18 Q. (BY MR. JORDE) I'll wait, Mr. Lange, until you
19 have a copy in front of you there.

20 What's being passed around, sir, and what you
21 have in your hands is Landowner Exhibit No. 52, which
22 you can see is Quest Consultants. And the statements
23 you disagreed with were statements that Quest
24 Consultants has made related to computational fluid
25 dynamics. Would you like to change your opinions at all

1 that you gave a second ago?

2 A. I think that when it comes to, I guess, this
3 statement, I somewhat fail to see where it calls out
4 CANARY as in relation to CFD. And then I think also
5 applicability in regards to exactly what you're modeling
6 is extremely important context in regards to determining
7 the solution and the appropriate solution for vapor
8 dispersion modeling.

9 Q. Have you come to understand that the basic Quest
10 Consultant package is CANARY, and then if there are
11 situations deemed to be where more detailed analysis is
12 needed, then Quest themselves recommends utilizing the
13 computational fluid dynamics package they offer?

14 A. I am not aware of that.

15 MR. JORDE: I would offer Exhibit LO-52.

16 ALJ HOGAN: Any objection to 52?

17 MR. DUBLINSKE: No objection.

18 ALJ HOGAN: Mr. Pelham.

19 MR. PELHAM: No objection.

20 ALJ HOGAN: 52 is received.

21 MR. JORDE: Thank you.

22 Q. (BY MR. JORDE) Just give me one minute, sir.
23 I think I'm wrapping up here.

24 Do you have any insight that you can share about
25 when PHMSA will complete the rule-making procedure that

1 they're currently involved in related specifically to
2 CO2 pipelines in the United States?

3 A. I have not seen PHMSA issue any hard dates.

4 Q. All right. I thank you, sir. I don't have
5 anything further.

6 ALJ HOGAN: Mr. Phillips, any questions?

7 MR. PHILLIPS: I do have questions. Would you
8 like me to go into them or is it a break point?

9 ALJ HOGAN: Well, let me ask you this. How many
10 -- did you have significant questions?

11 MR. PHILLIPS: Not quite as long as that
12 questioning but not just a few minutes either.

13 ALJ HOGAN: Maybe we should take our lunch break
14 and then come back and then we'll start with you, Mr.
15 Phillips.

16 Why don't we do that. So let's take our lunch
17 break. I always like to end at a time that's easy to
18 remember. So why don't we reconvene at 1:30.

19 (Recess)

20 ALJ HOGAN: All right. My clock said 1:30 so we
21 are going to get started again and continue with
22 cross-examination of Mr. Lange.

23 And we stopped right before I got to you, Mr.
24 Phillips, so you can go ahead.

25 MR. PHILLIPS: Thank you, Your Honor.

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CROSS EXAMINATION

BY MR. PHILLIPS:

Q. Good afternoon, Mr. Lange. I'm going to ask you some additional questions. I'm going to do my best not to cover the same ground that Mr. Jorde did. If there's any overlap, it's not intentional so just bear with me on that.

Based on your testimony earlier and your written testimony, is my understanding correct that you were the one that actually presented at the November 27th, 2023, meeting with Burleigh County emergency people?

A. That is correct.

Q. And as the director of engineering for Summit, you also were personally involved in creation of the dispersion model that was discussed at that meeting?

A. That is correct.

Q. There's a binder, I believe the one to your left. If I could just have you turn to Exhibit BC119.

A. Is it the API tactical guidance, CO2 tactical guidance?

Q. Correct. And I believe you'd even mentioned this document in your testimony earlier. I assume you're familiar with this?

A. That is correct.

Q. Is this a document that Summit provided to the

1 various first responders and emergency response
2 directors at the various counties?

3 A. It appears so.

4 Q. And this one -- actually if you turn back to
5 BC118, this is -- appears to be a cover email where this
6 document is listed among the ones that were sent to Mary
7 Senger at Burleigh County. Do you see that? I believe
8 it's the first document listed.

9 A. Yes, that's correct.

10 Q. All right. Turning back to BC119, this looks on
11 its cover here to be a guide developed by the American
12 Petroleum Institute and Liquid Energy Pipeline
13 Association with input from the National Association of
14 State Fire Marshals. Is that accurate?

15 A. That is my understanding, yes.

16 Q. And it was published in August of 2023 so
17 relatively recent; correct?

18 A. That is correct.

19 Q. And is this document specific to CO2 pipelines?

20 A. Yes.

21 Q. Is it your understanding that this is an
22 authoritative document or that Summit considers this an
23 authoritative document on preparedness for response --
24 or preparedness for a response to a pipeline release of
25 carbon dioxide?

1 A. In regards to it being federal regulations, no,
2 but it does provide good guidelines in regards to a
3 variety of CO2 emergency response planning or
4 preparedness for information.

5 Q. And kind of looking on every other page, on the
6 right side of it, it says "Best Practice Guidelines,"
7 kind of what it refers to as itself. Would you describe
8 it as best practice guidelines?

9 A. I would.

10 Q. Does Summit attempt to comply with the
11 requirements contained in this guideline?

12 A. I can't say definitively that we comply with
13 every single guideline, but there are a number of them
14 that we have used and considered when developing our
15 procedures or dispersion model.

16 Q. As part of your presentation and communications
17 with the counties, did you explain to any of those
18 county representatives that not all of the things within
19 this guideline are complied with?

20 A. We did not. And as I was -- as I just
21 mentioned, I just -- without rereading it right now, I
22 can't say definitively that every single item in this we
23 are complying with.

24 Q. Did you have a conversation with any
25 representative of Burleigh County where you explained

1 that not every provision in here is necessarily complied
2 with?

3 A. I don't remember that.

4 Q. This document was talked about at your
5 presentation, though?

6 A. Typically, they are talked about. A lot of
7 individuals will ask "What does a CO2 release look
8 like?" And this does provide good graphics in regards
9 to what you would visually see in a CO2 release.

10 Q. Let's turn on this exhibit to page 10. And I'm
11 looking at section 4 here on page 10, and it's called
12 "Dispersion Modeling Best Practices." It says there at
13 the beginning "The potential for CO2 pipeline systems to
14 affect high consequence areas must be evaluated." Is
15 that something that Summit did an evaluation of?

16 A. So that's referencing -- and it's called out on
17 the bottom -- 195.452 does require all operators to
18 identify risks to high consequence areas. And so that's
19 the federal regulation minimum. Summit has completed
20 dispersion modeling for all pipeline segments
21 independent of whether they can affect a HCA or not.

22 Q. That goes on to say that "Modeling is conducted
23 to estimate the potential worst-case consequences in the
24 event of pipeline rupture in or near an HCA." Is that
25 something that Summit has done, modeling based on the

1 worst-case consequences event?

2 A. We have modeled worst-case consequences, yes.

3 Q. Is that part of a dispersion model that was
4 discussed in your earlier testimony?

5 MR. DUBLINSKE: Objection, Your Honor. Calls
6 for the content of confidential information.

7 MR. PHILLIPS: Your Honor, I would argue that
8 it's a general topic similar to what was testified to
9 earlier and simply whether or not it's covered, not the
10 values or any specifics from the model.

11 ALJ HOGAN: I'll let him answer generally, but
12 we won't get into the specifics.

13 A. In the presentations, one of the dispersion
14 models we showed was a worst-case release type that we
15 talked about previously, the guillotine full bore
16 rupture.

17 Q. That third sentence, would that be covered by --
18 by that? It talks about "The consequence analysis
19 calculations should be performed for full bore pipeline
20 rupture under worst-case operating and atmospheric
21 conditions."

22 MR. DUBLINSKE: Again, I'm going to object that
23 this is getting into content of what was modeled, what
24 wasn't modeled, what the inputs and outputs were, and
25 that is all part of what's covered by the protective

1 order.

2 MR. PHILLIPS: May I respond?

3 ALJ HOGAN: Sure.

4 MR. PHILLIPS: Your Honor, this document is
5 already in evidence and it was provided to Burleigh
6 County as best practices. And I'm not asking about any
7 specifics, just simply did you, in fact, carry out those
8 best practices. And I don't have any follow-up
9 questions on the details of what the model shows as to
10 these topics, but I think Burleigh County should be able
11 to confirm that the information that was given to it is,
12 in fact, accurate.

13 MR. DUBLINSKE: And to that degree I would
14 object as asked and answered as Mr. Lange testified this
15 paragraph goes to the content of the federal regulation
16 and Summit will abide by the federal regulation.

17 ALJ HOGAN: Is your question specific to the
18 meetings or in general?

19 MR. PHILLIPS: I think my question wasn't
20 specific to the meetings. I think, in general, has
21 Summit, in fact, done this analysis.

22 ALJ HOGAN: And I think he did testify to that
23 already, that they've complied with those. So I do
24 believe it's been answered.

25 MR. PHILLIPS: Thank you, Your Honor.

1 Q. (BY MR. PHILLIPS) Moving on, there is a list
2 in that paragraph of key inputs. It says "Listed below
3 are key inputs to most of the models and can impact the
4 calculated potential impact area." The first item there
5 is pipeline parameters, and it lists various parameters
6 that you can read there. Did Summit use these inputs in
7 its model?

8 MR. DUBLINSKE: Same objection, Your Honor.

9 ALJ HOGAN: Yeah, I think we're getting into the
10 specifics so I'm going to sustain that objection.

11 Q. (BY MR. PHILLIPS) Summit provided this
12 document to Burleigh County; correct?

13 A. That is correct.

14 Q. And Summit has never provided any document to
15 Burleigh County for them to be able to analyze whether
16 these best practices have been followed?

17 A. Can you rephrase that?

18 Q. Yes. Summit has not provided any additional
19 documentation to Burleigh County for Burleigh County to
20 be able to analyze whether you followed the best
21 practices that are listed in the document you provided
22 them?

23 A. Summit has provided, and I think it was called
24 out in a prior reference, BC118, a few documents to
25 Burleigh County. To my knowledge, I have not received

1 any feedback from Burleigh County on their own internal
2 analysis of the documents provided.

3 Q. The various documents that were provided that
4 are listed on BC118, as to all of those, did you have
5 any conversation with anybody at Burleigh County
6 discussing whether Summit would comply with every
7 provision in each of those documents?

8 A. We did not have that conversation.

9 Q. That information is not available to members of
10 the public either; correct?

11 A. Can you clarify that one?

12 Q. The various documents that were provided to
13 Burleigh County that are listed on BC118, as you sit
14 here today, you don't know if Summit has complied or
15 intends to comply with all of the provisions of all of
16 those documents. Is that a fair statement?

17 A. I think that there's a -- there's a number of
18 documents in here where there is really no compliance
19 you can have. And so some of these are more of an
20 educational purpose in regards to like your
21 shelter-in-place place, right. That document is purely
22 a study on is shelter-in-place an adequate means for
23 protective measures. It's not so much that there are
24 requirements within that shelter-in-place document that
25 Summit can abide by.

1 Q. The next paragraph in this section talks about
2 the influence of surrounding topography. Do you see
3 that?

4 A. I do.

5 Q. Do you agree that north and east of Bismarck
6 there's terrain with a significant topographic relief?

7 MR. DUBLINSKE: I'm sorry, could I ask Mr.
8 Phillips to pull the microphone slightly closer? I
9 didn't hear the end of that question.

10 Q. Do you agree that north and east of Bismarck
11 there's terrain with significant topographic relief? In
12 other words, you know, variation in elevation and slope.

13 A. I think it depends how you define "significant."
14 When I look at topography in the digital elevation maps
15 around this area, I would consider the west side of the
16 Missouri River to have significantly more severe kind of
17 elevation changes.

18 Q. If you start north of Bismarck, generally the
19 terrain slopes toward the city; isn't that right?

20 A. I don't know that I know the answer firsthand,
21 but that's my general understanding, yes.

22 Q. Toward the Missouri River Valley?

23 A. I think that's generally correct, yes.

24 Q. And there's that paragraph that starts with
25 "similarly" in paragraph -- or section 4 on page 10.

1 And it says -- a sentence into there, it says "Similar
2 to wind, it is particularly problematic when the
3 direction of the terrain relief is in the direction of a
4 populated area or HCA. The use of atmospheric
5 dispersion modeling, coupled with overland spread
6 analysis using computational fluid dynamics modeling,
7 may be necessary in these areas," and it continues on to
8 recommend computational fluid dynamics modeling.

9 Do you see that part?

10 A. I do.

11 Q. And just that last sentence of that paragraph
12 says "In these areas, to truly understand whether a
13 nearby HCA could be affected by a CO2 release, CFD
14 modeling can be added in order to determine the
15 additional dispersion distance and ultimately determine
16 whether the dispersion plume might impact a nearby HCA
17 at any given point on the pipeline."

18 Did I understand your testimony earlier that
19 there was not computational fluid dynamics modeling done
20 with the software that was used by Summit or its
21 contractor?

22 A. In my engineering opinion, you somewhat get into
23 the nuances of what CFD is and is not. We did use
24 FLO-2D, which is addressed in my written testimony.
25 That does include the use of digital elevation maps with

1 inputs from the -- our CANARY output model to help
2 understand how a heavy vapor would flow with terrain.

3 Q. Did I understand your testimony earlier that
4 there is additional software packages available for
5 computational fluid dynamics that was not used by Summit
6 or its contractor?

7 A. I think that's fair. I think even with vapor
8 dispersion there are other options available outside of
9 CANARY.

10 Q. I believe you'd been asked questions about
11 whether that would be required for more complex
12 scenarios. Is that fair?

13 A. Can you repeat that question?

14 Q. No. I'll strike the question. That's fine.

15 Did you tell anybody at Burleigh County that you
16 would not be using computational fluid dynamics as part
17 of a dispersion model?

18 A. I don't recall that level of detail from the
19 meeting.

20 Q. It's fair to say that the best practices in this
21 document that you provided to Burleigh County suggested
22 that it be used in situations where the topography
23 slopes towards a populated area?

24 A. I would say that this document says that CFD
25 modeling may be necessary in some areas.

1 Q. Did Summit conduct an analysis of whether it
2 would be necessary in Burleigh County?

3 A. As I testified to earlier, Summit, and I guess
4 myself personally, we're very comfortable with the
5 dispersion modeling we've conducted. And when it comes
6 to topography and the use of the digital elevation maps
7 through FLO-2D in combination with CANARY gave us the
8 information that we needed to understand how topography
9 can play a role.

10 Q. And as you've testified earlier, the dispersion
11 model is not available to Burleigh County or the public
12 at large to confirm any of that; correct?

13 A. That is my understanding, yes.

14 MR. PHILLIPS: Give me one moment, Your Honor.

15 ALJ HOGAN: Sure.

16 (Pause)

17 MR. PHILLIPS: Thank you, Your Honor. I have
18 some additional questions regarding the inputs, but in
19 light of your ruling on the objection, I'm not going to
20 go ahead and ask those, but I'll just reiterate that we
21 would intend to admit those and are not pursuant to your
22 order.

23 And, with that, I have no further questions.

24 ALJ HOGAN: All right. Thank you.

25 Commissioner Christmann.

1 COMMISSIONER CHRISTMANN: When you -- were you
2 at all the meetings that are laid out in your testimony
3 with the list of attendees and invitees who did not
4 attend?

5 THE WITNESS: Yes. I was a presenter at every
6 single one.

7 COMMISSIONER CHRISTMANN: Okay. How would you
8 assess the responses of -- and kinds of things I'm
9 looking for are how often were people requesting
10 specific equipment or requesting more meetings or
11 requesting more detailed information than you were able
12 to give?

13 THE WITNESS: Yeah. I think that we'll kind of
14 break that down. One is for additional meetings. And
15 so if you look at that list, there was at least one
16 incident -- or not incident, but we did Oliver and
17 Mercer County twice. And so the first time we were at
18 Oliver and Mercer it was during the workday and so
19 didn't have the best attendance, and so those counties
20 reached out, said, "We would like to set up another
21 one." And so we did follow-up on May 16th.

22 And in regards to equipment, generally not a lot
23 of conversation there. In Cass County, the emergency
24 manager did ask, when it comes to things like CO2
25 detectors, who would be responsible for paying for those

1 for their first responders? But in regards to
2 additional equipment needs, I don't recall any other
3 requests.

4 And then generally we'll sometimes get questions
5 in regards to specific atmospheric conditions, winter,
6 summer, or different wind speeds, things along those
7 things. And so that -- I don't know. That's kind of a
8 general tone. But I think ultimately what I've seen
9 from all these presentations is that there are, as you
10 guys are aware, a significant number of pipelines in the
11 state of North Dakota and so I think that a lot of these
12 emergency managers are familiar with the safety
13 practices, the emergency response training process that
14 operators abide by in the state, and then there's those
15 federal regulations. And so just familiarity with
16 pipelines in general.

17 COMMISSIONER CHRISTMANN: But outside of a few
18 counties, this being a different commodity than most of
19 them are used to dealing with, was there any discussion
20 like that this is going to be an annual thing or a
21 monthly thing or a one-and-done?

22 THE WITNESS: Yeah. So when we start the
23 training, we really kind of give the background and that
24 this is ultimately kind of the foundation of what will
25 be coming. And so for a lot of these first responders,

1 when you talk about emergency response planning and
2 preparedness, you need to make sure that you understand
3 dispersion modeling and what constitutes dispersion
4 modeling, what tools do we have available to us so that
5 we can help educate first responders.

6 At the end of the day, my background is
7 engineering and so some of those topics that are
8 important to first responders I may not be aware of
9 until we start to hold some of those conversations. And
10 so it is a collaborative effort in that regard and
11 sharing information.

12 COMMISSIONER CHRISTMANN: The responses you got,
13 whether it's questions, statements, was it mostly from
14 the political side, the city commissioners, the county
15 commissioners, etcetera, or mostly from the actual first
16 responders?

17 THE WITNESS: I would say it was generally from
18 the actual first responders.

19 COMMISSIONER CHRISTMANN: And last, I don't have
20 it -- remember what page it's on, but maybe I missed one
21 or am off something here, but as I scrolled through them
22 I think I noticed that in all the cases one or more
23 county commissioners were invited except Emmons County.
24 Were there no -- did something not get printed in here?
25 Was there no county commissioners invited or what?

1 THE WITNESS: Unfortunately, I was not involved
2 in the invitation list and so I don't know the answer to
3 that. I, more or less, just showed up to present the
4 information and so I can't speak to the --

5 COMMISSIONER CHRISTMANN: Who would have created
6 the invitation list for Emmons County?

7 THE WITNESS: Most of it rolled through county
8 emergency managers and so they would propose kind of the
9 majority of the list, and then if there are individuals,
10 county commissioners that voiced to us that they would
11 be interested in attending, that was something that we
12 -- we would have extended an invitation to them as well.

13 COMMISSIONER CHRISTMANN: Okay. No other
14 questions. Thank you.

15 ALJ HOGAN: Commissioner Haugen-Hoffart.

16 COMMISSIONER HAUGEN-HOFFART: Yeah, I do have
17 questions. I don't even know where to begin based on
18 notes and what we've just received as far as testimony
19 so bear with me.

20 I'm going to first go to your resume.

21 THE WITNESS: Okay.

22 COMMISSIONER HAUGEN-HOFFART: And under the
23 Summit Carbon Solutions, employment began September 2021
24 to present. You indicated that this is your first CO2
25 pipeline design?

1 THE WITNESS: That is correct.

2 COMMISSIONER HAUGEN-HOFFART: Okay. You're
3 leading a team of engineers. Under that team, how many
4 of them have experience with CO2 pipelines?

5 THE WITNESS: On the internal side, the
6 engineers from my team personally, there would be none.
7 We do have employees at Summit; our control room manager
8 who has CO2 experience. And then on the external side,
9 there would be a significant number of employees that
10 would have CO2-related experience.

11 COMMISSIONER HAUGEN-HOFFART: What would you say
12 that significant number is?

13 THE WITNESS: The quantity of employees?

14 COMMISSIONER HAUGEN-HOFFART: That have
15 experience in CO2 pipeline when you say "significant
16 number."

17 THE WITNESS: It would likely -- I mean, when
18 you include all the contractors that are working on the
19 project, Gulf Interstate, some of their project
20 managers, David Ammerman was on the Dakota Gasification
21 project. And so if you start including contractors that
22 support, whether it's the engineering side or the
23 metallurgy side, you probably have close to a dozen.

24 COMMISSIONER HAUGEN-HOFFART: And what would you
25 say the years of experience are with those 12 people

1 that you've identified?

2 THE WITNESS: Most of them would be in the
3 probably 20-plus years range for each of those
4 individuals.

5 COMMISSIONER HAUGEN-HOFFART: Okay. You say
6 you're responsible for the development of the company
7 risk management -- risk assessment and risk management
8 process. Is that internal or internal and external?

9 THE WITNESS: We have external contractors that
10 help us develop an internal risk management process
11 under the integrity management program.

12 COMMISSIONER HAUGEN-HOFFART: And how many of
13 them have CO2 pipeline experience?

14 THE WITNESS: Some of those individuals will be
15 -- will overlap between the engineering team and the
16 risk management team, right. They play the same role.
17 The main lead for risk management is a guy named Kent
18 Muhlbauer, and I do not know his CO2 experience, but he
19 has extensive PHMSA background and experience. And if
20 you read some of the documents that are ultimately
21 issued through PHMSA, Kent is one of the authors on a
22 lot of those when it comes to risk management. But I
23 don't know his specific CO2 experience.

24 COMMISSIONER HAUGEN-HOFFART: Fair enough. So
25 when you said on page 4 of your testimony, and you've

1 alluded to this several times about laying the
2 foundation, would you describe that, you know, when you
3 lay the foundation -- and I've worked some in risk
4 management and emergency response and all that,
5 information sharing. And as you go on, it gets more
6 detailed and detailed; right?

7 THE WITNESS: I agree with that.

8 COMMISSIONER HAUGEN-HOFFART: So who leads that
9 detail of information? Would it be you as Summit or do
10 you expect emergency managers to lead that? What's your
11 expectation in, you know, you're responsible for risk
12 management and assessment?

13 THE WITNESS: Yeah, I think it's ultimately a
14 collaborative effort. And so I think a starting point
15 is that Summit does provide a lot of the information,
16 right. But as time goes on, and similar to how the
17 presentation has evolved over time, new questions come
18 up, new topics come up. And so we want it to be a
19 collaborative effort between us and those emergency
20 managers and first responders. And so if there's
21 information after that first take that they don't feel
22 was appropriately addressed, that's something that we
23 would work through with those individuals.

24 COMMISSIONER HAUGEN-HOFFART: Where would Summit
25 take the initiative and take the lead in regarding to

1 working with emergency managers, first responders?

2 Where is your lead role?

3 THE WITNESS: Yeah. So --

4 COMMISSIONER HAUGEN-HOFFART: In what areas?

5 THE WITNESS: I think the overall development of
6 that emergency response plan we would take the lead role
7 on. It does also take some, once again, coordination
8 with local responders in regards to what equipment do
9 they have, where are resources based out of. But we
10 would drive a lot of that when it comes to development
11 of emergency response plans and making sure they feel
12 that they're adequately -- they have the adequate
13 resources to help us respond. And so there are federal
14 requirements as well in 195 in regards to how often we
15 train first responders, things along those lines. And
16 so we will -- we'll comply with all that.

17 COMMISSIONER HAUGEN-HOFFART: Give me a brief
18 summary of that requirement that you just referenced.

19 THE WITNESS: Are you talking about the 195
20 requirements --

21 COMMISSIONER HAUGEN-HOFFART: Right.

22 THE WITNESS: -- for emergency managers?

23 COMMISSIONER HAUGEN-HOFFART: Yes.

24 THE WITNESS: One of them is that you must have
25 a training annually, not to -- or every calendar year,

1 not to exceed every 15 months. And so within those
2 timelines we'll have to reach out to first responders
3 across the project, bring them up to speed on where are
4 we at on the project, any potential things that may have
5 arisen on our project, and then really just continual
6 education when it comes to first responders. And so
7 that's the -- that's one part of it.

8 And then it's also, as I mentioned, development
9 of emergency response plans, how do you respond to an
10 incident, things along those lines.

11 COMMISSIONER HAUGEN-HOFFART: At these meetings,
12 it's been referenced several times by Summit as far as
13 the sign-in sheets are the actual documentation on who
14 attended. And you referenced earlier you don't know who
15 has those sign-in sheets. So who's ultimately
16 responsible for maintaining safety documentation? I
17 mean, where does the repository of information lie and
18 with whom?

19 THE WITNESS: Yeah. I think it -- it's a
20 slightly more complex question than a simple answer.
21 And so it's kind of broken out into different
22 categories. So when you look at relationships with
23 emergency managers and first responders, Dave Daum has a
24 lot of those relationships, especially when it comes to
25 emergency response planning. When it comes to setting

1 up the different meetings and owning kind of those
2 sign-in sheets, that would really fall to what I would
3 call our Bismarck office and really Wade's team.

4 And so it's kind of a team effort where
5 individuals will have specialties and they'll -- we'll
6 work together to answer whatever questions or topics may
7 arise.

8 COMMISSIONER HAUGEN-HOFFART: So someone has
9 them?

10 THE WITNESS: My understanding is that someone
11 has maybe not all of them but most or many of them, yes.

12 COMMISSIONER HAUGEN-HOFFART: Where would they
13 be? I mean, if you're saying that -- if it's been
14 testified that these sign-in sheets are documentation
15 that -- these safety meetings, where would they be? I
16 mean, why wouldn't you have them all to show that --

17 THE WITNESS: Yeah. When we -- when we first
18 started the process, I don't know that the first couple
19 meetings we maybe had sign-in sheets. I can't recall
20 that far back. But ultimately I do know that meeting
21 invites exist in regards to who was invited to those
22 meetings through Outlook. And then we do have a number
23 of sign-in sheets to validate who showed up to these
24 number of meetings. And so I know that we use those
25 when compiling the list of individuals that showed up.

1 COMMISSIONER HAUGEN-HOFFART: You have stated
2 several times "I'm confident with the work that Summit
3 has done with dispersion modeling." You've used the
4 word "confident" many times. So elaborate a little bit
5 more on that.

6 You know, safety is a big thing for many people.
7 Very passionate. I could get very passionate about it,
8 what I'm hearing from people, especially saying that --
9 I'm going to say it -- that we don't care about it, that
10 we don't care about the citizens of North Dakota. That
11 is so false. So false.

12 So tell me why Summit is so confident in this
13 pipeline and dispersion modeling and safety.

14 THE WITNESS: Yeah. I think it -- it really
15 started from the beginning in regards to how do we even
16 determine a model to use. And so it really -- without
17 going into too many details, some of those would be
18 covered in the confidentiality order, it really started
19 from the selection of a model and just the modeling
20 software in general, and then it really goes down
21 towards when we reference some of those documents in
22 regards to worst-case conditions and the modeling
23 associated with that, Summit ultimately used extremely
24 conservative values to kind of create some of these --
25 these dispersion buffers to better understand -- maybe

1 not better understand, that phrasing, but to understand
2 what is kind of that at-worst case type of condition and
3 what that may look like. And without going into details
4 on exact inputs and outputs that we have, it's a little
5 difficult to answer that question here.

6 COMMISSIONER HAUGEN-HOFFART: I have no further
7 questions.

8 ALJ HOGAN: Mr. Dawson, any questions?

9 SUBSTITUTE DECISIONMAKER DAWSON: I preface this
10 by saying I am not a scientist, I do not know much about
11 metallurgy or pipelines, so when I ask this it's out of
12 ignorance, but you talk about a break in a line being a
13 worst-case scenario, and then we hear about, if I
14 understand correctly, if it got broken in any fashion,
15 it would be colder than negative 50 degrees and one --
16 every -- would it guillotine break in every circumstance
17 because of that cold? Sooner or later at least
18 fracture?

19 THE WITNESS: I think what you're -- you're
20 going back to the question I had earlier about brittle
21 pipelines. And so -- try and word it. Really, when we
22 design a pipeline, we select a number of parameters,
23 right, in regards to how are we going to design the
24 pipeline, whether that's a temperature number both in a
25 minimum and maximum case, design temperature, whether

1 that's pressure.

2 And so when it comes to steel pipelines, you
3 really want the steel to operate or that metal to be in
4 a ductile state. And so a ductile state allows for that
5 pipeline to really deform without losing its material
6 toughness. And if you go into a brittle state,
7 deformation may lead to cracking and fracturing of our
8 pipeline.

9 And so by selecting the design criteria that we
10 did and the temperature ranges that we did, and then
11 ultimately following API 5L requirements for testing of
12 your drop-weight tear testing, you can validate that the
13 steel and the composition of the steel that you selected
14 will always operate within that ductile region. And so
15 then you can sustain potential deformations without
16 necessarily resulting in some type of fracture. And so
17 it really comes down to how you specify your pipes and
18 your metallurgy of your pipe.

19 And so generally the answer would be no, is that
20 you could have some type of smaller break, let's call it
21 a pinhole leak from corrosion or whatnot, that would not
22 result in a guillotine release.

23 Did that answer your question?

24 SUBSTITUTE DECISIONMAKER DAWSON: I'd ask you to
25 dumb it down some more, but that will do.

1 THE WITNESS: I apologize.

2 ALJ HOGAN: Mr. Dublinske, any redirect?

3 MR. DUBLINSKE: (No audible response.)

4 ALJ HOGAN: All right. Well, thank you, Mr.
5 Lange.

6 Next witness.

7 MR. DUBLINSKE: Your Honor, while we're between
8 witnesses here, if Your Honor would like, we can commit
9 to filing those sign-in sheets. We didn't because, A,
10 there may be some that -- some meetings that there
11 weren't sign-in sheets. In other cases, they may have
12 been supplemented by people looking at them and saying,
13 "Well, hold it, I remember this person was there."

14 So I think that the typed will be more accurate,
15 but if Your Honor would like to see those, we can
16 certainly file those as a late-filed exhibit.

17 ALJ HOGAN: Is that something the commissioners
18 would like?

19 COMMISSIONER HAUGEN-HOFFART: I think you've --
20 it's been answered for me, but I won't speak on behalf
21 of the other two.

22 COMMISSIONER CHRISTMANN: I'm fine with what
23 we've had. No one's challenged it and said, no, this
24 shows a person that attended that didn't or anything
25 like that. So it wasn't challenged so I'm fine with

1 those.

2 SUBSTITUTE DECISIONMAKER DAWSON: I'd agree.

3 The accuracy hasn't been challenged.

4 ALJ HOGAN: All right. No extra work for you.

5 MR. DUBLINSKE: I wanted to make sure. Thank
6 you.

7 MR. GLUDT: Your Honor, at this time the
8 Applicant would call Wade Boeshans.

9 ALJ HOGAN: Welcome back, Mr. Boeshans. I'll
10 have you state your full name for the record.

11 WADE BOESHANS: Wade Wayne Boeshans.

12 ALJ HOGAN: All right. And I know you've been
13 sitting in the room all morning so you heard me go
14 through the penalties for perjury?

15 WADE BOESHANS: Yes, I did.

16 ALJ HOGAN: And you understand what perjury is?

17 WADE BOESHANS: I do.

18 ALJ HOGAN: And being advised of the potential
19 penalties for perjury, do you promise to tell the truth
20 in this case today?

21 WADE BOESHANS: I do.

22 ALJ HOGAN: All right. Thank you.

23 Go ahead, Mr. Gludt.

24 MR. GLUDT: Thank you, Your Honor.

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WADE BOESHANS,

being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GLUDT:

Q. Mr. Boeshans, have you testified in these proceedings prior to today?

A. I have.

Q. And you testified specifically at the April 22nd, 2024, hearing in Mandan; correct?

A. I did.

Q. And in preparation for today's hearing, have you prepared written rebuttal testimony?

A. I did.

Q. And was that testimony prepared by you or under your control and supervision?

A. It was.

Q. And when you prepared that testimony, was it true and correct?

A. It was.

Q. And as you sit here today, does your testimony remain true and correct?

A. It does.

Q. Are there any corrections you need to make to your testimony?

1 A. No.

2 MR. GLUDT: Your Honor, at this time we'd move
3 to admit Mr. Boeshans' written rebuttal testimony as
4 SCS R-19.

5 ALJ HOGAN: Any objection, Mr. Pelham?

6 MR. PELHAM: No objection.

7 ALJ HOGAN: Mr. Jorde.

8 MR. JORDE: Your Honor, same objections as
9 before. Improper rebuttal and relevance. Thank you.

10 ALJ HOGAN: And Mr. Phillips.

11 MR. PHILLIPS: I'll just join those objections
12 for the same reasons.

13 ALJ HOGAN: All right. The objections will be
14 noted, but I will admit SCS 19.

15 Q. (BY MR. GLUDT) All right, Mr. Boeshans, I just
16 want to highlight a couple of points from your written
17 testimony. Were you here or were you able to hear
18 Mr. Wachter's testimony regarding the distance of the
19 current pipeline route to his Silver Ranch development?

20 A. I did.

21 Q. And Mr. Wachter testified that at the time and
22 based off a map that Burleigh County had produced, that
23 that distance was approximately two miles. Do you agree
24 with that assessment?

25 A. I do not.

1 Q. Can you please explain for the Commission why
2 you disagree?

3 A. Yeah. There was a map that was presented to
4 Mr. Wachter and he was asked that question. The map was
5 Burleigh County 101. And specifically to that question,
6 you know, the map is -- I have it in front of me here --
7 relatively small scale. He was asked, you know, what's
8 the distance from 80th Street to the current pipeline
9 route. If you look at the map, although it's really --
10 you have to look very closely, you'll see that 80th
11 Street is actually covered up by the text that labels
12 Silver Ranch and -- and so you just can't tell the
13 distance very easily or clearly on this map. And
14 additionally, the route that was depicted by Burleigh
15 County was from preliminary information and not exactly
16 accurate.

17 So in my testimony you'll see Exhibit A. And on
18 Exhibit A you see the -- the route that was filed in
19 October of 2022 in blue on that exhibit. You'll see the
20 updated route including the Bismarck reroute, which goes
21 off of the page to the north in yellow and black dashed.
22 And then you see that it's labeled -- the actual
23 distance is approximately four miles from 80th Street,
24 which is the eastern extent of Silver Ranch to the
25 current pipeline route.

1 But, again, it would be difficult for
2 Mr. Wachter to detect that from this exhibit that he was
3 looking at given the -- you know, things weren't easy to
4 read given the small size of it. And -- and so I just
5 wanted to make that clarification.

6 Q. And Mr. Wachter also testified that he was
7 surprised to learn that the reroute to the east of
8 Bismarck where the pipeline crosses I-94, right around
9 that area, actually moved closer to the city of Bismarck
10 based on the map that Burleigh County had produced. Is
11 that accurate?

12 A. No, it's not accurate. Again, Mr. Wachter was
13 presented with this Burleigh County 101 exhibit or BC101
14 exhibit, and they had predicted or mapped, I guess,
15 based on some preliminary information, the pipeline
16 route. And if you look at my Exhibit A -- or, excuse
17 me, Exhibit B, you'll see the actual route. And on that
18 route again you'll see the route that was filed in
19 October of 2022 in blue and you'll see the current route
20 in yellow and black dashed.

21 And so where we cross highway -- or, excuse me,
22 Interstate 94, you can see how the route has changed in
23 that area as we worked -- and I personally worked with
24 the landowner there, Dale Pahlke, to make that
25 adjustment where we didn't cut kittycorner across his

1 field. We, rather, followed the treeline which follows
2 a transmission line and came back to -- you know,
3 towards -- towards the east and then followed the
4 property line again straight to the north. And there
5 was another landowner just on the north side of Pahlke's
6 property who didn't want the route on their property and
7 we routed off of them and onto landowners that have
8 since signed easements.

9 And so all this was part of -- you know, we
10 worked with, I think there was about a half a dozen
11 landowners and we developed this route and secured
12 easements on, roughly, six miles; some of it on the
13 south side and some of it on the north side of the
14 interstate at the same time.

15 But that's the actual route. You can see how
16 it's materially different than BC101. You can also see
17 that it didn't move any closer to the city of Bismarck.

18 Q. I'm going to switch gears a little bit here,
19 Mr. Boeshans. Did you have the opportunity to hear the
20 testimony provided by Ben and Rose Dotzenrod at the
21 public hearing in Wahpeton?

22 A. I did.

23 Q. And did you hear the concerns expressed by the
24 Dotzenrods regarding their drainage easement?

25 A. I did.

1 Q. Can you explain to the Commission the steps
2 Summit intends to take to address those concerns,
3 please?

4 A. I can. So as I understood, Mr. Dotzenrod's
5 concern was his drainage facility on the drainage
6 easement that was not on his property but was on the
7 property adjacent to his. You know, we're willing to
8 bore underneath his line. As I understand it, he has a
9 drainage pipeline in that easement. It's draining his
10 -- it's the main drain for his drain tiles. So we're,
11 you know, willing to commit to the Dotzenrods and
12 Mr. Dotzenrod that we'll bore under it and, therefore,
13 not disturb that line.

14 Additionally, we're working on an agreement that
15 we are willing to present to the Dotzenrods that we'll
16 provide them indemnification and guarantee the -- any --
17 indemnification for any loss related to our use of our
18 easement and installation of our pipeline.

19 MR. GLUDT: Your Honor, I don't have any further
20 questions at this time. We would tender the witness for
21 cross.

22 ALJ HOGAN: Mr. Pelham, any questions?

23 MR. PELHAM: I don't, but Mr. Schock does.
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CROSS EXAMINATION

BY MR. SCHOCK:

Q. So I think your written testimony does a good job of cleaning up the corridor width and the route buffer they requested, but I just want to make sure I understand it clearly.

A. Sure.

Q. So the current corridor you're requesting is 200 feet wide across the entirety of the project in North Dakota; is that correct?

A. That's correct.

Q. Okay. And a route typically is an infinitely small point, but in the last, say, five years or so we've started to allow for route buffers just so that you can kind of work around things as you get out there in the field.

So you're requesting a total of 50 feet wide, 25 feet on either side of the centerline of the -- of any potential approved route as a buffer; is that correct?

A. Yes, that's correct.

Q. Okay. I think that's all I have. Thank you for clarifying that. Thank you.

ALJ HOGAN: Mr. Phillips, any questions?

MR. PHILLIPS: Yes, Your Honor.

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CROSS EXAMINATION

BY MR. PHILLIPS:

Q. You had made some clarifications in relation to the testimony of Chad Wachter and relied on Exhibit A and B to your testimony. I just want to clarify you're not here to rebut any other testimony from Chad Wachter in this case, correct, just in relation to those two exhibits?

A. Yeah. Well, we covered the two things. That's correct.

MR. PHILLIPS: Thank you. No further questions.

ALJ HOGAN: Mr. Jorde, any questions?

MR. JORDE: Yes, Your Honor. Thank you.

CROSS EXAMINATION

BY MR. JORDE:

Q. Sir, in your prefiled testimony, on page 4 you are posed a question about in certain situations it's not possible to implement every route adjustment requested, and one of the factors you list there says, quote, "The further along in the process and the more parcels with signed easements, the more constrained changes are."

I mean, would you agree it doesn't become impossible, it's just less convenient for you in those situations?

1 A. I would disagree with that. Because absent the
2 -- you know, all of the information, I can't say that it
3 is possible, I can't say that it's not possible. So
4 it's a "it depends" answer.

5 Q. All right. And I appreciate that. Because the
6 question you were asked in line 8 on page 4 uses the
7 word "possible." And so just so that we're clear,
8 you're not saying it's impossible to do the reroutes
9 that my clients have suggested, are you?

10 A. I don't know that specifically. I'd have to
11 look at the exact situation.

12 Q. And the further along in the process, I mean it
13 -- I guess I take that, that it would have been easier
14 in your view to talk about reroutes and modifications a
15 month ago, a year ago, I mean two years ago. Is that
16 what you're getting at?

17 A. Yeah. I would say generally it's a lot easier
18 when you have all of the information sooner to address
19 them together, which is what this kind of says.

20 Q. And you say that you are willing to personally
21 meet with the affected landowners to discuss possible
22 alternatives. Now, you mean you're willing to speak
23 with myself, Mr. Leibel as their representative, and
24 with them. I mean, you're willing to have a Zoom
25 meeting with all of us to hammer this out? Or what's

1 the invitation you're offering up there?

2 A. Yeah, the invitation is to -- to meet with the
3 landowners, and if they choose to have their attorney
4 present, happy to accommodate that as well. So I wasn't
5 that explicit in the invitation here, but that's what I
6 would envision, is the opportunity to hear from the
7 landowners and understand what -- you know, what the
8 possibilities are, what could we work out and make work.

9 Q. Okay. And so do you think is the ball in your
10 court? Should I call you after you're done testifying
11 to set this up? I mean, how do you envision that
12 invitation actually turning into something?

13 A. Yeah, I would say you could reach out to our
14 attorney, or if the landowners want to reach out to me
15 personally, I'm happy to take their call.

16 Q. Okay. And then as to the Dotzenrods, okay, you
17 say you're willing to bore underneath the drainage
18 easement, but the answer says -- it's qualified --
19 "absent any unforeseen constructability issues."

20 So let's say, hypothetically, sir, you were --
21 meaning Summit -- were granted a permit but it wasn't --
22 or the application was granted, but it wasn't
23 conditioned upon boring under the drainage easement.
24 Based on your answer, you could rely on that
25 qualification and say, "Well, something came up and

1 we're not going to do it." Is that right?

2 A. I wouldn't characterize it that way. What
3 that's meant to say is we would need to go out and meet
4 with Mr. Dotzenrod and look at the property, determine
5 exactly what's there, do a constructability review and
6 say here's how we're going to -- here's how we plan to
7 cross this line. And the unforeseen part is, you know,
8 we won't know what's there until we actually uncover or
9 start construction, if you will. Find, locate the line,
10 and if there was something there that either us or
11 Mr. Dotzenrod doesn't know of today, then that's the
12 unforeseen part.

13 Q. And let's say that it plays out that way and
14 you're out there and you're doing whatever analysis you
15 think you need to do. Would you submit that then to the
16 PSC? Because of course this, you know, our question and
17 answer period, the hearings would be over by then. And
18 if you did -- if you would agree to submit that, if it
19 didn't show any constructability issues, would you be
20 willing for there to be a condition in any order, should
21 there be one, that requires you to bore underneath the
22 Dotzenrod drainage easement?

23 A. Yeah, I would say that, in my view, regardless
24 of how we cross the line, we're offering an indemnity
25 and a repair guarantee. Okay. Now in terms of the

1 specific bore itself, I would say we're committing to do
2 that given this -- with this unforeseen caveat because
3 we haven't actually gone out and investigated the area,
4 if you will, and did a review or survey of any type and,
5 to my knowledge, haven't had any -- received any
6 information from Mr. Dotzenrod around this specific
7 installation of the drain line. And so I think there's
8 more work to do to check those boxes and figure that
9 out. What I'm saying is we're committed to doing that.

10 Q. Okay. Let's go to -- I don't know if you have
11 your testimony, but page 11, that's Exhibit C, have a
12 Valera Hayen, and I have some questions about that.

13 MR. JORDE: And then, Mr. Leibel, if you're able
14 to get Exhibit 54 passed around.

15 Q. (BY MR. JORDE) So, sir, I'm looking at what
16 you have submitted here as of yesterday. Did this get
17 prepared yesterday? I suppose you have a map person
18 that put this together? When was this prepared? Do you
19 know?

20 A. I believe this was prepared on Friday,
21 Friday/Saturday.

22 Q. All right. Now do you know if your -- or the
23 red line that you've got here on page 11 of your
24 rebuttal testimony, does that move the proposed pipeline
25 further away from Ms. Hayen's home, or do you know the

1 new distance from her home if that were to be
2 implemented?

3 A. I do not know the distance and I don't see it
4 here.

5 Q. Do you know if the red line proposed here stays
6 out of her virgin prairie grasses?

7 A. It looks like it does, but, again, I don't know
8 for sure.

9 Q. And does it stay out of and far enough away from
10 Native American burial sites on her property?

11 A. We would have to survey it to verify that. So
12 it's -- again, to do any of these, we would have to be
13 doing some survey to determine if this was a permissible
14 route or a route that avoided certain features.

15 Q. And you, I think, were in the room when
16 Mr. Powell last testified to his prefiled testimony
17 where he said, quote, "We know where the cultural sites
18 or cultural resources --" I don't remember the word
19 "-- are." Do you remember that testimony?

20 A. I don't, not that specifically.

21 Q. All right. And then to suggest the -- the
22 purple line, your current route, you would agree that --
23 I mean you would still, to your logic, need all the same
24 information that you apparently don't have to suggest a
25 red line; is that right?

1 A. Yeah, that's correct. The red line has not been
2 surveyed and so, you know, this is a -- here's an
3 alternative of things we could do to help address the
4 concerns of Hayens. And, again, until we actually got
5 in the field and survey it and, quite frankly, hear from
6 the Hayens around what is their input on a route that
7 addresses their concerns, those things all have to come
8 together.

9 Q. All right. And I think Exhibit 54 has been
10 passed around. I hope so. And I believe it's been
11 emailed. And I think one will be coming to you, sir, in
12 a moment.

13 A. All right.

14 ALJ HOGAN: I think everybody has it.

15 MR. JORDE: All right.

16 ALJ HOGAN: Yep, go ahead. Sorry, I didn't know
17 you hadn't handed it to him.

18 Q. (BY MR. JORDE) And I'm not going to ask you a
19 bunch of questions because this has just been handed to
20 you, but since we got your document yesterday, tried to
21 turn this around with Ms. Hayen quickly, but, sir, what
22 I represent this to be is -- you see an RTA with a line,
23 and that's a southern line, and then it starts heading
24 west and then back up north in section 20, 21 there.
25 That's Ms. Hayen's preferred reroute, and then reroute B

1 is the second-least bad reroute.

2 So I would just respectfully request that your
3 team take a look at this and maybe we can circle back on
4 this, unless you have any comments right out of the gate
5 to tell me why this is impossible?

6 A. No comments, just will look at it.

7 Q. All right.

8 MR. JORDE: I would offer Exhibit 54.

9 ALJ HOGAN: Any objection to 54?

10 MR. GLUDT: No, Your Honor.

11 ALJ HOGAN: Mr. Pelham.

12 MR. PELHAM: No objection.

13 ALJ HOGAN: All right. 54 is received.

14 MR. JORDE: Thank you.

15 Q. (BY MR. JORDE) And then if we go to the next
16 page, sir, in your prefiled testimony, which would be
17 page 12 on Exhibit C, the Starobas, I'm just curious,
18 you show one of their parcels there near the land
19 parcel, but what about the second parcel which is part
20 of the east half of section 35-132-51? Have you agreed
21 to make route modifications on that portion of your
22 proposed route?

23 A. Yeah. So on -- I'll just start with what's
24 shown on Exhibit C, page 12. It's really just showing
25 that the current route is what Mr. Staroba had

1 requested. And I knew that because I was working with
2 Mr. Goerger who owns the property in the upper
3 right-hand piece of that diagram, and he was talking to
4 Mr. Staroba and helped me understand or helped us
5 understand that diagonal crossing. And we incorporated
6 it into the route and were able to get that approval
7 from the Richland County Commission to cross at that
8 angle.

9 The property that's off the page or would be the
10 next tract to the east or to the right of the diagram on
11 page 12, I recall from Mr. Staroba's testimony in
12 Wahpeton that he wanted a change to that route. Willing
13 to work -- look at that with him. I didn't fully
14 understand what he was asking for there so I can't
15 comment -- you know, comment in terms of "Can we do it
16 today," but just that we would like to meet with him and
17 understand exactly what that is and then what's possible
18 there.

19 One of the limitations in this case is that's a
20 railroad that's crossing the property and separating
21 Goerger's property from his. Typically, we have to
22 cross railroads at 90 degrees. And the sketch that I
23 saw, I think that you submitted, didn't include a
24 90-degree crossing and there were just some other things
25 we'd have to understand and find -- determine what we

1 can do and what we can't do there.

2 Q. Okay. So for the items that you didn't
3 understand relative to his other parcel that's
4 unaddressed here, what was kind of your thought process
5 of gaining that understanding? Were you going to email
6 me or send a letter? Or what were you -- how were you
7 going to get that understanding that you say you didn't
8 have?

9 A. Yeah, we'd have -- we would start communicating.
10 And, again, I think the last correspondence that I'm
11 aware of here -- again, I've had limited involvement in
12 these tracts outside of the Bismarck reroute, but there
13 are some such as Mr. Goerger that I have been involved
14 in and -- and just because Terry and I have a
15 relationship that goes back to, you know, 12 years ago
16 or so. And they started having problems down in -- or
17 were getting a lot of questions from his neighbors.

18 And I went down there and met several times and
19 had 20-plus landowners in the room together, and most of
20 them ended up working out easements with us.
21 Mr. Staroba was never part of that. So the first step
22 here would be for us to communicate with each other
23 around what are the questions and see if we can't work
24 toward a resolution.

25 Q. Well, yeah, I disagree, I guess. And maybe I

1 asked a bad question. So, you know, he testified in
2 Wahpeton, and I just wanted to make sure so we're not
3 ships passing in the night, you then said -- you just
4 told me you were confused by his testimony relative to
5 his other piece in Wahpeton, and I just wanted to make
6 sure, are you going to -- is this how I had to learn
7 about your confusion, by cross-examining you, or are you
8 going to reach out on that, or what was your plan?

9 A. Yeah, let's reach out.

10 Q. Okay.

11 A. I'll have our attorneys contact you, or if it's
12 easier, I'll just contact Staroba directly.

13 Q. And then as to the Lugerts' property, based on
14 what you're showing here on 13, do you believe that
15 alleviates their concerns based on their testimony that
16 they've provided in this matter both last year and
17 recently in Wahpeton?

18 A. I believe this is similar to what they requested
19 or you requested, but in terms of -- I don't know --
20 without talking to them, I don't know that it addresses
21 their concerns, but I think it's similar to what you
22 sent to us.

23 Q. Okay. And you -- and it very well might be,
24 sir, but you understand all of those suggestions were in
25 -- you know, far lower on the totem pole than just

1 reroute around the property. So have you considered any
2 reroute around the Lugert property like to the north or
3 the south of it?

4 A. Not at this time.

5 Q. All right. And then the next one, to the APH
6 Farms, we got a glimpse of this earlier today with
7 Mr. Hagerott, Jon. And he expressed his opinions on it.
8 Have you, Summit, looked at options either to the north
9 or the south around the Hagerott land?

10 A. Not that I'm aware of. Again, I haven't been
11 involved in these tracts. What I do know is I think
12 this -- this again reflects the approximate route that
13 was identified in our communication from you, but that's
14 the limit of my knowledge of this specific property.

15 Q. All right. And then same question, sir, to the
16 next page, 15, the Rockstad parcel. Based on the
17 objections that have been submitted and you're aware of,
18 do you believe that -- well, let me just strike that.

19 Have you looked at a reroute option that would
20 eliminate placement of the proposed hazardous pipeline
21 on the Rockstad property?

22 A. I personally have not been involved in a reroute
23 that avoided the Rockstads.

24 Q. Okay. And who -- I understand you were heavily
25 involved in Bismarck, but who would be that person

1 that's kind of looking at, for instance, the Rockstads
2 and the APH Farms parcels?

3 A. So that would be our, you know, pipeline routing
4 team. Again, as I've committed to here, I'll take the
5 lead and initiate and try to figure this out with your
6 clients.

7 Q. All right. And then the Malloy piece on page
8 16, apparently the red line is a reroute that kind of
9 mirrors the southern boundary line as it curves around.
10 And so have you looked at a potential reroute, sir, that
11 avoids the Malloy ground altogether?

12 A. I have not, and I'm not aware of one.

13 Q. Okay. And then that takes us to page 17, the
14 Walochs. Same question there. Are you aware of any
15 work on selecting a route that would avoid the Waloch
16 land?

17 A. I'm not.

18 Q. Well, then that answers the same for page 18,
19 the Shirley Waloch land as well?

20 A. That's correct. As you can see, there's lots of
21 wetlands out there and so it's a challenging area of the
22 state.

23 Q. Correct. I agree with that. Okay. All right.
24 I don't have anything further, sir. Thank you.

25 ALJ HOGAN: Commissioner Christmann, any

1 questions?

2 COMMISSIONER CHRISTMANN: Yes, Your Honor.

3 I think just one, but it applies to basically
4 all of Exhibit C. I got kind of confused along the way.
5 First I thought that these were, you know, not finalized
6 because I think you indicated that they haven't been
7 surveyed, but these were proposals that Summit is
8 willing to discuss with these landowners who are
9 objecting. But then some of the time you're saying you
10 haven't looked at anything.

11 So are these the requests from the landowners
12 where they would prefer to have the pipeline at or are
13 these things that Summit -- are these reroutes that
14 Summit is proposing could be looked at to satisfy some
15 of the concerns that you've heard?

16 THE WITNESS: Uh-huh. Yeah, I think I -- as I
17 understand the question, it's some of both. In most
18 cases the landowners that have provided us an alternate
19 route on their property, we've looked at that and said,
20 yeah, we think we can do that, but we need to survey it
21 to verify what we think. So it was just purely looking
22 at it from a desktop perspective.

23 And then there are a couple others that said,
24 "Well, we want you to move it entirely off of our
25 property" or a reroute that doesn't include their

1 properties, in which case we've taken a look at it and
2 said, well, we first need to go engage with the other
3 landowners and we need to survey the route.

4 So it gets -- it's a lot simpler when we're -- a
5 landowner is asking us for a reroute on their property
6 because now they are in total control of can we survey
7 it and can we then, if we make that change, proceed to
8 an agreement, an easement agreement. When it's somebody
9 else, we haven't had -- we haven't talked to neighbors,
10 that I'm aware of, to look at alternate routes around
11 that property. Now, our team may have previously to
12 this, but, again, my -- my involvement here since the
13 hearing started today on these tracts, we have not done
14 that.

15 COMMISSIONER CHRISTMANN: Okay. And then based
16 on your map that you showed that showed the east of
17 Bismarck area there in that reroute --

18 THE WITNESS: Yes.

19 COMMISSIONER CHRISTMANN: -- it sure would look
20 to me like it's just short of four miles, as you
21 indicated. Did you have any discussion with Mr. Wachter
22 since that testimony about the map that he had in front
23 of him and the confusion on that distance?

24 THE WITNESS: Yes, I did. I talked to him after
25 the hearing. I told him that, you know, it was -- just

1 what I testified to here, and I told him that I would
2 correct it. And he was, like, yeah, he -- he hadn't
3 seen the map before or indicated he hadn't so...

4 COMMISSIONER CHRISTMANN: Okay. No other
5 questions. Thank you.

6 ALJ HOGAN: Commissioner Haugen-Hoffart.

7 COMMISSIONER HAUGEN-HOFFART: I think it's just
8 -- you know, looking at Exhibit 101, I think
9 Mr. Flanagan testified based on the map 100, they looked
10 at your map that was submitted, 100, and they developed
11 map 101. Is that your understanding from his testimony?

12 THE WITNESS: I -- my understanding is they
13 looked at the map, and I'd have to see which number it
14 is specifically --

15 COMMISSIONER HAUGEN-HOFFART: I thought he
16 referenced 100.

17 THE WITNESS: And is that in the black book?

18 ALJ HOGAN: Black binder.

19 COMMISSIONER HAUGEN-HOFFART: Yep.

20 ALJ HOGAN: BC100. Should be the first exhibit.

21 THE WITNESS: That's what I recall.

22 COMMISSIONER HAUGEN-HOFFART: Okay. So I
23 mean --

24 THE WITNESS: I recall that he was referencing
25 this map.

1 COMMISSIONER HAUGEN-HOFFART: Right. He
2 referenced map, the 100. And then based on their
3 programming, they developed 101 in which Mr. Wachter
4 testified; correct?

5 THE WITNESS: That was my understanding, yes.

6 COMMISSIONER HAUGEN-HOFFART: Okay. I just
7 wanted to make sure we're on the same page on how this
8 map came about --

9 THE WITNESS: Yes.

10 COMMISSIONER HAUGEN-HOFFART: -- based off of
11 your initial 100 map.

12 THE WITNESS: Yep, understood. I could tell by
13 comparing the two that this doesn't match -- 100 and 101
14 don't match exactly, and that's the difference I'm
15 showing on my Exhibit B.

16 COMMISSIONER HAUGEN-HOFFART: Okay. So we have
17 before us a lot of exhibits, a lot of maps. So as we go
18 forward, if something is changed, can we expect an
19 updated map, you know, frequently as things change so we
20 can look at it? Or how is that process going to work?
21 Because I mean, just today, I don't know how many maps
22 we've gotten, you know. So as we move forward, how are
23 we going to get updated maps in a timely fashion?

24 THE WITNESS: Yeah, that's a -- that's a
25 reasonable question.

1 COMMISSIONER HAUGEN-HOFFART: Or a reasonable
2 request.

3 THE WITNESS: Yeah, a reasonable request, yes.
4 The way I understand it is that, you know, we filed the
5 updated route, the current route, in January, and the
6 map book reflects all of that routing. And then we
7 discussed here today some potential reroutes or
8 modifications on all these properties. At some point
9 then we would update that again and submit it, submit
10 the updated routes.

11 But it's also my understanding if those changes
12 are less than a mile and a half, then they're considered
13 minor in nature. And then they're still updated with
14 the Commission but -- and into the docket. I'll have to
15 defer to others that are -- that are, I guess, more
16 familiar with that process than I am.

17 I'm just saying that, you know, we'll provide
18 updates as frequently as the Commission would like us to
19 provide them, but that's just been the process, as I
20 understand it.

21 COMMISSIONER HAUGEN-HOFFART: So we have to
22 request it?

23 THE WITNESS: I would say that you don't have
24 to. You could request it, as I understand it. Or we
25 could file it, which we would at some point in time,

1 say, okay, we've done all of these, we've confirmed
2 them, surveyed them, secured easements, now let's file
3 or update the route. But I am not familiar with exactly
4 what that timing or practice has been or, quite frankly,
5 should be.

6 So it can work either way is the way I
7 understand it, but certainly we'll be communicating
8 with, you know -- with Victor in trying to make sure we
9 are providing the Commission what the Commission needs
10 in a timely way.

11 COMMISSIONER HAUGEN-HOFFART: Thank you. No
12 further questions.

13 ALJ HOGAN: Mr. Dawson, any questions?

14 SUBSTITUTE DECISIONMAKER DAWSON: One question.
15 What are your rules of engagement with represented
16 landowners? You were saying that you'll talk directly
17 to landowners but not to attorneys and attorneys talk to
18 attorneys. Is there kind of a rubric you have here that
19 you follow?

20 THE WITNESS: That's a great question. What I
21 follow is if a landowner is represented by an attorney,
22 I will have our attorney or our land guy work with their
23 attorney. Sometimes landowners work out -- reached out
24 for me directly or us directly or request a meeting with
25 me. And if they request to meet with me, I will always

1 meet with them. And if they want their attorney to be
2 there, then he'll come with them. And sometimes they
3 don't want their attorney to be there, they'd say,
4 "Well, I just want to get some information," and we'll
5 do it that way. But that's the way I engage with or
6 have engaged with landowners. I don't know that there's
7 a rubric.

8 SUBSTITUTE DECISIONMAKER DAWSON: No further
9 questions.

10 ALJ HOGAN: Any redirect, Mr. Gludt?

11 MR. GLUDT: No, Your Honor.

12 ALJ HOGAN: All right. Thank you, Mr. Boeshans.

13 THE WITNESS: Thank you.

14 ALJ HOGAN: Next witness.

15 MR. GLUDT: The applicant calls David Daum.

16 COMMISSIONER CHRISTMANN: Your Honor, while
17 Mr. Daum is taking the stand, I just want to remind in
18 case there's different people in the room that I have
19 that other commitment at about 3 and so I'll be leaving
20 for that reason, but I'll review the recording.

21 ALJ HOGAN: All right. Thank you for that
22 reminder.

23 All right. Good afternoon, Mr. Daum. I'll have
24 you start by stating your full name and spelling your
25 last name for the record.

1 DAVID DAUM: Yeah. It's David James Daum. Last
2 name is D-A-U-M.

3 ALJ HOGAN: And, Mr. Daum, did you hear me go
4 through the penalties for perjury earlier today?

5 DAVID DAUM: I did.

6 ALJ HOGAN: And do you understand what perjury
7 is?

8 DAVID DAUM: I do.

9 ALJ HOGAN: And being advised of the potential
10 penalties for perjury, do you promise to tell the truth
11 in this case today?

12 DAVID DAUM: I do.

13 ALJ HOGAN: All right. Thank you.
14 Go ahead, Mr. Mahlberg.

15 MR. MAHLBERG: Thank you, Your Honor.

16 DAVID DAUM,

17 being first duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. MAHLBERG:

21 Q. Mr. Daum, over the weekend did you prepare or
22 cause to be prepared a document entitled "Rebuttal
23 Testimony of David J. Daum on Behalf of SCS Carbon
24 Transport LLC" dated June 2, 2024?

25 A. Yes, I did.

1 Q. When you wrote that testimony, were the answers
2 true and correct?

3 A. Yes, they were.

4 Q. If I asked you those same questions today, would
5 your answers be the same or substantially the same?

6 A. Yes.

7 Q. Do you have any corrections to make?

8 A. I do not.

9 MR. MAHLBERG: Your Honor, we'd offer the
10 rebuttal testimony of Mr. Daum as SCS R-20.

11 ALJ HOGAN: Mr. Pelham, any objection?

12 MR. PELHAM: No objection.

13 ALJ HOGAN: Mr. Phillips.

14 MR. PHILLIPS: No objection.

15 ALJ HOGAN: And Mr. Jorde.

16 MR. JORDE: Same objections, improper rebuttal
17 and relevance and to foundation. Thank you.

18 ALJ HOGAN: All right. Those objections are
19 noted, but I will admit SCS-20.

20 Q. (BY MR. MAHLBERG) Now, Mr. Daum, I want to
21 briefly go over the points of testimony that you gave,
22 and understanding that you're third in line today and
23 so, for some of these, significant portions of your
24 testimony was addressed.

25 Generally speaking, though, your rebuttal

1 testimony addressed four issues. One is first
2 responders meetings, another was equipment requests, the
3 grant program, and the Texas A&M training; correct?

4 A. That's correct.

5 Q. With respect to -- with respect to the equipment
6 requested -- I'm going to skip over the first responders
7 and emergency manager meetings -- based on the content
8 of your written testimony and the lengthy discussions
9 today, I don't think we need to go over that again
10 now -- but can you summarize what you have to say in
11 your written testimony about the equipment requests and
12 the grant program?

13 A. Yes. Summit -- Summit has committed to
14 providing a grant to each county that the pipeline runs
15 through in the amount of \$50,000 and \$1,000 per mile of
16 pipeline in that county for -- for the county emergency
17 managers to use however they see fit, for what they may
18 need, and that is in addition to carbon dioxide monitors
19 that we have already committed to providing.

20 Q. Beyond the carbon dioxide monitors that you have
21 already committed to providing, are you aware of any
22 outstanding request for equipment from any first
23 responders?

24 A. I am not.

25 Q. Okay. Then, Mr. Daum, with respect to the Texas

1 A&M training, can you give a brief synopsis of what your
2 testimony tells us about that?

3 A. Yeah. The Texas A&M is something that was
4 brought to our attention that provides information
5 around CO2 emergency response, pipeline basics,
6 emergency response planning, how to use air monitoring
7 equipment, those types of safety things. And we've
8 offered -- we have -- we have the availability of some
9 spots at that training when they do have it, and we've
10 offered that -- to provide some folks from the emergency
11 response community the opportunity to go down there at
12 Summit's cost and go to the training.

13 MR. MAHLBERG: Your Honor, I don't have anything
14 further and would expose Mr. Daum to cross-examination.

15 ALJ HOGAN: Mr. Pelham, any questions?

16 MR. PELHAM: I don't. Thank you.

17 ALJ HOGAN: Mr. Schock?

18 Mr. Phillips, any questions?

19 All right. Mr. Jorde, did you want to go first?

20 MR. JORDE: Yeah, that would be great. Thank
21 you.

22 CROSS EXAMINATION

23 BY MR. JORDE:

24 Q. Sir, your title is, let's see, the senior
25 director of health, safety, security, and environmental

1 for Summit; right?

2 A. That's correct.

3 Q. And that's because safety is a very important
4 part of this project; right?

5 A. Yes.

6 Q. Now your experience, according to your CV, you
7 worked many years for British Petroleum; is that right?

8 A. Yes. I worked for BP.

9 Q. All right. And is that where you -- I'm sorry,
10 go ahead.

11 A. I worked for BP for 22 years.

12 Q. All right. Very well.

13 And is that where you became familiar with
14 Mr. James Powell, at BP?

15 A. I did meet Mr. Powell at BP, I believe, back
16 in 2001.

17 Q. Did you, throughout your BP tenure, have any
18 involvement at all with the Deepwater Horizon project?

19 A. I did not.

20 Q. All right. You provided information, some
21 additional, in these safety -- safety tour meetings.
22 And just to be absolutely clear, those are different and
23 separate and apart from the emergency response meetings
24 that Mr. Lange was talking about; is that right?

25 A. That's correct.

1 Q. And during the safety tour meetings, was any
2 information related to plume dispersion or modeling,
3 risk analysis, hazard distances, those kind of things
4 shared with the public?

5 A. The only thing regarding dispersion modeling in
6 there was that it was a requirement of PHMSA that we do
7 dispersion modeling and what we use it for, which is to
8 inform our integrity management programs and our
9 emergency response programs.

10 Q. All right. And as the director, the senior
11 director dealing with safety for Summit, are you
12 familiar, do you make yourself familiar with the PHMSA
13 rules and regs and the Pipeline Safety Act?

14 A. Yes, I'm familiar with PHMSA regulations.

15 Q. And are you familiar that, under the Pipeline
16 Safety Act, the Secretary of Transportation did not
17 prescribe to PHMSA any ability to locate or route a CO2
18 pipeline facility?

19 MR. MAHLBERG: Object to the extent it's calling
20 for a legal conclusion about the regulations.

21 ALJ HOGAN: Do you want to rephrase your
22 question?

23 MR. JORDE: Yes. I don't want a legal
24 conclusion. I'm just curious if he's familiar with that
25 regulation, yes or no. I don't need his interpretation

1 of it.

2 A. Can you tell me what the regulation is?

3 Q. (BY MR. JORDE) Yeah. We've got the Pipeline
4 Safety Act, and then we've got Section 60014(e) which
5 states, quote, "This chapter does not authorize the
6 Secretary of Transportation to prescribe the location or
7 routing of a pipeline facility," end quote.

8 Are you familiar with that?

9 A. I'm familiar that PHMSA does not site pipelines.

10 Q. Okay. And then are you also familiar that PHMSA
11 cannot issue federal safety standards for a pipeline's
12 location or a pipeline's route?

13 MR. MAHLBERG: Object to the extent it's asking
14 about a legal conclusion and relevance to the extent
15 we're just going to have Mr. Jorde read out of the
16 guidelines.

17 ALJ HOGAN: Yeah. Can you reword?

18 Q. (BY MR. JORDE) Well, you're the -- not just
19 the safety person, the senior safety person. And I'm
20 just curious, sir, as your familiarity with PHMSA and
21 your preparation as the senior safety person for this
22 project, are you aware one way or another whether or not
23 PHMSA can or can't issue federal safety standards for a
24 pipeline's location or route in the state of North
25 Dakota?

1 A. I don't believe that PHMSA has a regulation to
2 site pipelines in North Dakota.

3 Q. And because PHMSA doesn't get involved in where
4 a CO2 pipeline is located or routed, would you agree
5 that there's no prohibition for utilizing safety
6 considerations as a factor in where the pipeline might
7 be routed within North Dakota?

8 MR. MAHLBERG: I'll object to the extent that
9 one's calling for a legal conclusion, as to speculation
10 about what can and can't be considered and by whom, and
11 also relevance and we're outside the scope of the
12 testimony. I don't understand what this line of
13 questioning does in relation to the rebuttal testimony
14 as filed.

15 ALJ HOGAN: I'm not sure I understand the
16 relevance of your question either, Mr. Jorde.

17 MR. JORDE: Okay. I can maybe try to help on
18 that.

19 Q. (BY MR. JORDE) So did you personally go to
20 these safety meetings and not just the secret ones, the
21 -- what would you call them, the safety one -- safety
22 tour meetings? Were you personally there?

23 A. I was.

24 Q. Okay. And you're probably aware of -- or maybe
25 you're not -- questions related to, you know, what can a

1 county do, what can a state do, where do the feds come
2 in? I mean, help us understand. Did you participate in
3 any type of discussions in these meetings relative to
4 your proposed project here dealing with those kind of
5 questions, kind of the interchange of who does what?

6 MR. MAHLBERG: I'm going to object to the form
7 of that as compound. There are lots of questions in
8 there. I think that -- a simpler question will get a
9 simpler answer out of this.

10 ALJ HOGAN: Can you break that down, Mr. Jorde?

11 MR. JORDE: I'll take as long as we need, be
12 happy to.

13 Q. (BY MR. JORDE) So we have established that you
14 personally were at the safety tour meetings, you were
15 personally at the secret meetings. And the question is
16 did you personally -- were you personally asked or are
17 you personally aware of anyone in any of these meetings
18 asking any questions related to the interchange of what
19 localities can do, what the State can and can't do, and
20 versus what the Federal Government can and can't do
21 relative to your siting of your pipeline project?

22 A. I don't recall any specific questions to me
23 regarding that. What I do know is what we had on one of
24 our boards was the regulations that applied to us.

25 Q. And when you say "the regulations that applied

1 to us," are you meaning the federal regulations that
2 apply to Summit as an operator?

3 A. Federal and state.

4 Q. Okay. Now you were asked if the -- in your
5 experience, is Summit's outreach it's conducted with the
6 emergency responders typical? And is that outreach
7 you're talking about these more detailed secret meetings
8 starting in November 2023 or how did you take that
9 question that you answered?

10 MR. MAHLBERG: I'm going to object to the form
11 to the extent that these meetings continue to be called
12 "secret meetings." That's -- that's not reflecting the
13 actual testimony.

14 ALJ HOGAN: And I think just so our record is
15 clear, Mr. Jorde, when you say "secret meetings," are
16 you referring to the meetings where the general public
17 was not invited to them?

18 MR. JORDE: Yeah, where it was only for the
19 invited list and then the secret information that the
20 parties here don't have, those meetings. The ones, I
21 think, Mr. Lange laid out in his testimony that I
22 believe Mr. Daum was a participant in.

23 MR. MAHLBERG: I think we all understand which
24 meetings are being referenced, but to avoid an objection
25 on the form of the question, they are not secret

1 meetings. Members of first responders in several
2 counties were invited and came. Emergency managers were
3 invited and came. So the implication that they're
4 secret meetings, rather than having to object to the
5 form of this question each time, if we could just not
6 mischaracterize them.

7 ALJ HOGAN: Yeah, I agree. I don't think the
8 characterization of a secret meeting is appropriate,
9 Mr. Jorde, so I'd ask that you refrain from using that
10 phrase.

11 With that said, did you -- you didn't object to
12 the question, just the --

13 MR. MAHLBERG: Just the mischaracterization of
14 the nature of the meetings.

15 ALJ HOGAN: Mr. Jorde, we might need your
16 question again.

17 MR. JORDE: Sure.

18 Q. (BY MR. JORDE) So the confidential meetings
19 where none of the other parties to this proceeding were
20 allowed to be present, those are the meetings I'm
21 talking about. And are those the meetings that you're
22 referencing in your answer on page 4 to the question
23 "Based on your experience, is the outreach that Summit
24 has conducted with emergency responders typical?"

25 A. No. I was talking generally in -- in --

1 outreach in general to emergency responders and first
2 responders.

3 Q. In terms of --

4 A. Which may include those meetings.

5 Q. Okay. Very good. So just kind of generally,
6 whatever meetings you had with first responders, you're
7 kind of including all those. Is that fair?

8 A. Yes, that's fair.

9 Q. And then this grant program, did I hear you
10 right that a \$50,000 grant would go -- would that be
11 paid to the county with the intent that the emergency
12 manager can spend it on whatever he or she sees fit? Is
13 that the intent?

14 MR. DUBLINSKE: If I may, Your Honor, sort of a
15 point of personal privilege, my -- it may just be my
16 hearing that's going, but can you pull that microphone
17 just a little closer, Dave? I'm having trouble hearing.

18 THE WITNESS: Okay. Is that better?

19 ALJ HOGAN: I think so. Use your outside voice.

20 THE WITNESS: Sorry.

21 Q. (BY MR. JORDE) Did you need me to state that
22 again?

23 A. Yeah, can you repeat that, please?

24 Q. Sure. And I'm on page 5 of your testimony if
25 that helps. But this \$50,000 grant, if that's something

1 that Summit would -- you know, they're going to pay it
2 into the county or you pay it directly to emergency
3 managers? What's the mechanism? And then are there any
4 restrictions or guidelines on what to do with that
5 money?

6 A. No. It's a grant in to the emergency managers
7 for them to use as they see fit for equipment or
8 whatever else they may need to respond to incidents.

9 Q. And when you say "a grant," that kind of term of
10 art, rather than you're going to write a check for
11 50,000, do you mean that if emergency manager in X, Y, Z
12 county says, "We only spent a thousand," that you'd
13 retain 49,000 or is -- I'm just trying to figure out the
14 mechanism, if you can help me out on how that works?

15 A. That is not my understanding.

16 Q. Okay. And then is there a contract with the
17 county? Say, for instance, the current owners of Summit
18 sell before this is constructed, I mean is there
19 something in writing where we can force you or a county
20 can force you to pay those funds? Or how is that
21 working?

22 A. I don't know that there's a contract at this
23 point, but there's a commitment -- a letter that serves
24 as a commitment to that -- to that grant.

25 Q. And the additional thousand dollars per mile of

1 pipeline in a specific county, is that per year or is
2 that one time at construction or what's that?

3 A. That's part of the one-time grant. And
4 oftentimes there are others -- other grants that come
5 later during the project.

6 Q. All right.

7 A. But this -- right now this is a one-time \$50,000
8 grant plus \$1,000 per mile in the county to each county
9 that the pipeline goes through.

10 Q. Are you aware that some lobbyists in South
11 Dakota lobbied to do away with such a requirement in
12 Senate Bill SB201 in South Dakota, the per-mile
13 commitment?

14 MR. MAHLBERG: I'll object to the extent that
15 we're talking about apparently South Dakota legislation
16 when Mr. Daum is not testifying about South Dakota
17 legislation.

18 ALJ HOGAN: I'll sustain that objection.

19 Q. (BY MR. JORDE) How much is the grant for the
20 affected landowners, business owners, and occupants?
21 What's their grant amount?

22 A. I don't know which grant you're talking about.

23 Q. Don't you have one for the people that actually
24 are living, working near the proposed pipeline? If
25 you're giving the county a large 50,000, what are you --

1 what are you proposing specifically for safety-related
2 things for the actual affected persons?

3 A. I'm not aware of any grant for that purpose.

4 Q. And you're certainly aware that a county can
5 construct its own emergency response plan; correct?
6 They don't have to rely on Summit's emergency response
7 plan, do they?

8 A. No. A county can construct an emergency
9 response plan. Typically, they're called "preplans."

10 Q. And --

11 A. Or different -- different things that may be in
12 there in their county for different scenarios or
13 businesses or whatever it may be in their county.

14 Q. And in order to create a robust and accurate and
15 informed county-level emergency response plan, you would
16 agree that the county should be provided not just a
17 high-level summary but the exact plume modeling,
18 dispersion modeling data that Summit's conducted;
19 correct?

20 MR. MAHLBERG: I'm going to object to this line
21 of questioning which is going to go down the exact same
22 road or line of questioning that has gone on on this
23 topic with nearly every witness. There's no reason to
24 do it again.

25 ALJ HOGAN: I'll allow him to answer this

1 question, but, Mr. Jorde, I don't want to go down this
2 road again because we've gone over this ground many,
3 many times during this hearing.

4 Q. (BY MR. JORDE) What's your answer, sir?

5 A. Whenever a -- whenever an emergency response
6 plan, whether it's the county or it's us, we're required
7 to do it by PHMSA, which also requires us to have
8 conversations with -- with emergency responders. We
9 talk about all the information that's relevant. And if
10 they want to use that information in their -- in their
11 preplan or plan, whatever they call it, they can do it.

12 And we are also going to be putting together
13 what we call "initial response tactics" based on
14 information that we receive from first responders as
15 well as the information and data that we have regarding
16 the pipeline to have the best emergency response plan
17 that we can have in a collaborative fashion with the
18 best response capabilities and technologies.

19 Q. In terms of the Texas A&M training, you state
20 that Summit's invited North Dakota emergency managers to
21 the course at Summit's cost. Is there something in
22 writing, some type of a contract whereby this is an
23 ongoing annual training and retraining for new folks
24 that might become employed in the various emergency
25 response offices or volunteer firefighters, for

1 instance? Or how do you envision that working?

2 A. Again, no contract in place, but we have sent a
3 letter to, for example, Ms. Senger, the emergency
4 manager for Burleigh, offering that training and
5 committing to that. And I, personally in the meetings
6 that I've been in, brought that up and -- and asked if
7 -- if any of the -- you know, in the case of the
8 meetings I was at, the fire chiefs or any of their
9 personnel would be interested in going, you know, to
10 that -- to that training at this point in the project to
11 learn more about pipeline basics and CO2 safety.

12 Q. And I appreciate that. My question is a little
13 more specific. Is the commitment here to offer
14 participation in this program on an annual basis to
15 those persons within the North Dakota-affected counties
16 that may want to go or is this kind of a front offer?
17 I'm just trying to get a little more meat on what this
18 offer is.

19 A. Yeah, so -- so we get -- as I mentioned, we get
20 a certain amount of spots, usually two to four spots per
21 session. There's usually about four sessions per year
22 that we can send people to. And we'll continue to do
23 that as long as the course is provided. It's a
24 third-party course, but we will send people to those
25 courses as long as it's there.

1 Q. And when you say "at Summit's cost," is that the
2 course cost or does that include travel expenses so
3 there's not a burden on county resources? Or where does
4 Summit's cost contribution or reimbursement stop?

5 A. Yeah. So the -- for the people we've sent,
6 we've paid for expenses and the course cost.

7 Q. Okay. And expenses, trip to get there --

8 A. Travel, hotel, meals.

9 Q. Very good.

10 All right. I think you have here that no North
11 Dakota emergency response personnel has taken Summit up
12 on this opportunity. Is that still true as we sit here
13 today?

14 A. As far as I know, that is true.

15 Q. Okay. All right. Let's see.

16 MR. JORDE: Your Honor, I -- I don't have any
17 more questions for this witness, but before I pass, I
18 just want to clean up -- I thought I -- I'm almost
19 positive I offered Exhibit 57, which were the photos of
20 the Olson family that I said we'd produce later, but to
21 the extent I failed to offer Exhibit 57, I just want to
22 clean that up and get that admitted here.

23 ALJ HOGAN: You previously offered and I
24 accepted 57.

25 MR. JORDE: Okay. I thought so. Thank you.

1 And thank you, sir. Nothing further.

2 ALJ HOGAN: Mr. Phillips, any questions?

3 MR. PHILLIPS: Yes, Your Honor.

4 CROSS EXAMINATION

5 BY MR. PHILLIPS:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. There's been some discussion in your testimony
9 about grants to the counties. Are you aware of Burleigh
10 County's requirement for accepting and spending grants,
11 that those have to be approved at a public county
12 commission meeting?

13 A. I am not.

14 Q. Your current position is, if I can read it
15 correctly, senior director of health, safety, security,
16 and environmental at Summit; is that correct?

17 A. That's correct.

18 Q. What education, training, or experience of any
19 kind do you have specific to carbon dioxide pipelines as
20 it relates to emergency response procedures?

21 A. So my background is I have a bachelor's degree
22 in occupational safety and health, a minor in
23 environmental health, and a master's in industrial
24 management, and I'm a certified safety professional.

25 Q. And that was a lot of broad terms. I do want to

1 narrow it in specifically to CO2 pipelines.

2 A. As far as CO2 pipelines specifically, I have
3 never worked on a CO2 pipeline project previously.

4 Q. And if I understand your testimony correctly,
5 you were present at the November 27th, 2023, meeting
6 with the Burleigh County emergency responders and
7 managers; is that correct?

8 A. That's correct.

9 Q. I'm going to have you look at that black binder
10 and turn to Exhibit BC119.

11 A. 119?

12 Q. Yes.

13 A. Okay, I think I'm there.

14 Q. Did you hear the testimony earlier from Mr.
15 Lange about this document?

16 A. About what? I'm sorry, I didn't hear the end of
17 your question.

18 Q. Did you hear the testimony earlier by Mr. Lange
19 when he testified about this document?

20 A. Yes. I was in the room.

21 Q. And is this a document that you provided to Mary
22 Senger with Burleigh County?

23 A. I did, after that meeting, per -- per request
24 and per the documents that were requested in that
25 meeting.

1 Q. Is it your understanding that Summit intends to
2 comply with all the requirements in this guideline
3 document?

4 A. The document is a guidance document. I believe
5 we either comply with or we will comply with those that
6 are applicable to the project. Some may not be
7 applicable to the project and some items may be
8 applicable only in certain situations.

9 Q. Are you familiar with which ones are applicable
10 and which ones are not?

11 A. For example, there's -- there's a piece about
12 forced air displacement and using fans as emergency
13 response equipment. In some scenarios we may use those
14 depending on the situation and some they wouldn't work
15 and we wouldn't use them. That's just an example that I
16 can think of off the top of my head.

17 Q. What about the portions of the document that do
18 clearly apply, do you -- does Summit intend to comply
19 with the requirements in this document?

20 A. Yes, I believe so. There's requirements in
21 there that reference PHMSA regulations and we have to
22 comply with those specifically around emergency
23 response.

24 Q. We'll look at a specific one, to page 6 of that
25 document.

1 A. Okay, I'm there.

2 Q. And the heading there at the top, 3.1,
3 "Community/Stakeholder Outreach." It lists sort of a
4 list of stakeholders there. Does Summit or has Summit
5 reached out to these various stakeholders? We can start
6 with the first, the affected public.

7 A. Well, I'll go back and say so this is community
8 outreach and it references 195.440, which is the public
9 awareness program, which also references Recommended
10 Practices 1162 on Public Awareness, which is another API
11 document. And those are requirements that we will have
12 to follow when the time comes.

13 At this point, you know, the public awareness
14 program isn't in place because we're not in operation.
15 Okay. Have we -- have we talked to the affected public?
16 Yes. The safety tour meetings that we're having and
17 those types of things. But it's a little premature and
18 it's a little bit different, what we're spending there,
19 than what would be specific to the requirements of this
20 regulation.

21 Q. I don't think I caught what you said triggers
22 when these requirements will come into place. Can you
23 explain that?

24 A. When we're operating a pipeline with CO2 in it.

25 Q. Regardless of whether it's required at this

1 time, has Summit reached out to one of the items there,
2 fire departments, law enforcement, local emergency
3 planning committees?

4 A. Yes.

5 Q. What about hazmat teams?

6 A. Not specifically but sometimes indirectly
7 because hazmat teams are part of the fire departments.

8 Q. Excavators and contractors?

9 A. Not that I'm aware of at this time.

10 Q. What about public officials?

11 A. If you consider public officials such as county
12 commissioners and -- and -- then yes.

13 Q. Would Summit have records of all the public
14 officials it's reached out to?

15 A. I believe there's records of all the public -- I
16 believe there's records of all the meetings, commission
17 meetings, that -- that Summit has attended.

18 Q. There was some prior testimony about whether
19 county officials were invited to a meeting in Emmons
20 County. Do you know if commissioners were invited to
21 that meeting in Emmons County?

22 A. I'm not aware.

23 Q. Would the documents exist in Summit's possession
24 that establish whether or not those officials were
25 invited?

1 A. From -- from what I understand how the process
2 works around public outreach and public -- public
3 outreach, that any meetings that -- that we -- we ask
4 for or we send to officials would be documented in a
5 system that we have within Summit Carbon.

6 Q. Part of the outreach that you did was in
7 relation to this November meeting in 2023 with Burleigh
8 County; correct?

9 A. Yes, I would say that was outreach.

10 Q. And I'm sorry to jump back a little bit, but I
11 want to make sure I cover this here. You talked earlier
12 about your -- or I asked you about education, training,
13 and experience, and you indicated this is the first CO2
14 pipeline you worked on. You didn't really address
15 education or training. What education or training do
16 you have specific to CO2 pipelines?

17 A. So I've been to the TEEX course as one reference
18 of training. I've attended that. My -- my education as
19 a whole covers many different aspects of safety,
20 whether, you know -- and a broad array of different
21 chemicals. So I've worked around CO2. I've worked
22 around H2S. I've worked around xylene, refined
23 products, so on and so forth.

24 You know, the regulations basically translate to
25 whatever the product may be. The product -- you know,

1 those safety data sheets and their properties is -- is
2 what then we manage the risk to.

3 Q. Do you agree that CO2 release and a subsequent
4 response would present some unique circumstances that
5 are different from more common products like oil and
6 gas, natural gas?

7 A. I would say that CO2 has some different
8 properties than -- than natural gas and it has some of
9 the same. They're both simple asphyxiants so they
10 displace oxygen. CO2 is heavier than air. Natural gas
11 is lighter but often contains things like butane and
12 propane, which are heavier and, under the right
13 conditions, can cause a cloud to drift and sit in
14 low-lying areas as well. CO2 is non-flammable. Natural
15 gas is flammable. So those are just some of the
16 properties. But, yes, there's differences.

17 Q. And this is your first time working on a CO2
18 pipeline?

19 A. Pipeline specific, yes.

20 Q. Are those differences between CO2 and some other
21 chemicals part of the reason it's important to educate
22 stakeholders?

23 A. I think it's always important to educate the
24 stakeholders no matter what it is, and that's why the
25 regulations, like I said, translate, you know, whether

1 it's a natural gas pipeline or it's a crude oil pipeline
2 or it's a CO2 pipeline, you still have to do the same
3 thing. You have to do the public outreach. You have to
4 do the emergency response plan. You have to do the
5 training. You have to share the emergency response plan
6 with first responders. You have to train first
7 responders, so on and so forth.

8 Q. Still looking at Exhibit BC119, the second full
9 paragraph there on page 6 talks about operators becoming
10 familiar with potential public gathering centers such as
11 schools, hospitals, etcetera, along the route. What
12 work has Summit done in relation to things like schools
13 and hospitals and the like?

14 A. So those types of things will be -- will be part
15 of -- I mentioned earlier the initial response tactics
16 is something we do in addition to the emergency response
17 plans, and that is understanding -- that will be done
18 for each mile of the pipeline. And that is
19 understanding what is in the areas of the pipeline and
20 what could be affected by a potential release, you know,
21 from the pipeline.

22 And so, you know, when the -- when the line gets
23 finalized, you know, we'll, you know, look at that data
24 and that information and collect it, and that will be
25 some of the discussions we have with first responders as

1 to how we would respond specifically in an area where
2 there may be a hospital or there may be a school or
3 there may be a few homes, or whatever it may be. And
4 that's what those specific response tacticals are for.

5 Q. That one doesn't have a footnote to any federal
6 regulations. Is that part of a federal regulation or is
7 it just one of the best practices in this guideline?

8 A. I don't recall specifically if that's in the
9 regulation or just the guideline at this point.

10 Q. Is there a process in place to make sure that
11 Summit will go ahead and do that at the appropriate
12 time?

13 A. Can you clarify that, go ahead and do what?

14 Q. Well, you testified earlier about how certain
15 things will become requirements under federal law when
16 you're operating the pipeline. This, it appears, may
17 not be a federal regulation. Is there anything that's
18 going to trigger Summit to know to go out and comply
19 with this best practice?

20 A. The best practice, no. The regulation, yes, and
21 which this is part of the Regulation 440, which is the
22 public outreach regulation.

23 Q. To be clear, what we're talking about here is
24 becoming familiar with public gathering centers. Does
25 Summit have a plan to become familiar with any public

1 gathering centers as part of its plan of action in
2 relation to this pipeline project?

3 A. Yeah, I believe so. As I mentioned, you know,
4 we will -- we will have to understand what could be
5 impacted by a potential incident along the pipeline, and
6 if there is one of these type of locations that are
7 there, then we have to -- you know, we have to identify
8 those and that will be part of the -- the discussion we
9 have with first responders as to how it's best to
10 respond, do they have the right equipment, so we have
11 the right equipment, so on and so forth, based on the
12 guidance and this -- this document.

13 Q. There's a list here in that same section of
14 things that should be considered when developing a plan
15 of action. I'm not going to read them all off there,
16 but you can read them, starting with ability to safely
17 evacuate people from the school, hospital, or other
18 place of gathering. Is that list part of the federal
19 regulation?

20 MR. MAHLBERG: I'm going to object. Two things.
21 One to the form of that question, that he's going to ask
22 him about a list that he just told him not to read.

23 Second, going down this path, I think Mr. Daum
24 has testified that they're going to comply with all the
25 applicable regulations. He's testified now beginning to

1 be ad nauseam about line by line by line out of this
2 document. I think it's becoming cumulative and
3 unnecessary at this point.

4 ALJ HOGAN: Do you want to address that, Mr.
5 Phillips?

6 MR. PHILLIPS: Yes, Your Honor. I believe I
7 said that I wouldn't read it out loud but that the
8 witness certainly can and should. But I think -- you
9 know, you can say, yes, we're going to comply with all
10 the regulations and everything in this big document. I
11 should have an opportunity to go through some of the
12 details with him to confirm that this isn't a broad
13 statement that's not based in reality. I should be able
14 to test the veracity of that claim.

15 ALJ HOGAN: I'll allow him to answer.

16 A. Looking at this briefly, it looks like these are
17 all things we would consider.

18 Q. (BY MR. PHILLIPS) Looking at page 7, "Response
19 Drills and Exercises," has Summit conducted any response
20 drills or exercises with Burleigh County?

21 A. Not to date.

22 Q. Does it have a plan to do so at a certain time?

23 A. Yes. Part of our timeline, and this was also
24 communicated in these safety tour meetings, was that
25 once we start construction, that's when training with

1 first responders will start, and prior to going into
2 operation, we will conduct exercises and drills with
3 first responders and our personnel to make sure
4 everybody's on the same page.

5 Q. And what about Section 3.3 on page 8? This
6 deals with training of pipeline operators. What plan
7 does Summit have for training of pipeline operators?

8 A. This is in regard to emergency response. Our
9 pipeline operators that Summit will employ will -- will
10 be trained as first responders.

11 MR. PHILLIPS: Just one moment or two, Your
12 Honor. I just want to check my notes.

13 (Pause)

14 MR. PHILLIPS: Thank you. No further questions.

15 ALJ HOGAN: Commissioner Haugen-Hoffart.

16 COMMISSIONER HAUGEN-HOFFART: I have no further
17 questions.

18 ALJ HOGAN: Mr. Dawson.

19 SUBSTITUTE DECISIONMAKER DAWSON: You say that
20 you will take requests for equipment and besides and
21 oxygen-based breathing apparatus of some sort. Is there
22 any sort of anticipated equipment that might be
23 requested? I'm just curious.

24 THE WITNESS: We haven't heard too much besides
25 the CO2 monitors, but I can tell you some of the things,

1 you know, small things we've thought of include things
2 like reflective vests because we may have people
3 blocking traffic in a certain area, flashlights, you
4 know, road barricades, general things you would use to
5 respond to an incident, block roads and keep people
6 away.

7 SUBSTITUTE DECISIONMAKER DAWSON: So besides
8 perhaps an oxygen-based breathing apparatus of some
9 sort, there's really no other sort of specialized
10 equipment?

11 THE WITNESS: No. I mean, in -- and the
12 document, the guidance document, is there. And I
13 mentioned it earlier, like fans, these big fans. Those
14 will be things that will be evaluated for certain types
15 of releases.

16 And what else? As I mentioned, it displaces
17 oxygen so, you know, breathing apparatus, CO2 monitors.
18 Those are the main -- the main response equipment that
19 -- that we would be looking at.

20 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. No
21 further questions.

22 ALJ HOGAN: Commissioner Haugen-Hoffart.

23 COMMISSIONER HAUGEN-HOFFART: I do have one.

24 THE WITNESS: Okay.

25 COMMISSIONER HAUGEN-HOFFART: You talked about

1 the grants at the county level. What about the state
2 level? Has there been any communication with North
3 Dakota DES in offering the State -- and I don't know if
4 they're eligible so -- but at the State, like if there
5 was a command center opened up or anything? Has there
6 been communications with the State?

7 THE WITNESS: Not that I'm aware of at this
8 time.

9 COMMISSIONER HAUGEN-HOFFART: Is there
10 anticipated communication with the State on emergency
11 response?

12 THE WITNESS: I guess it's not something I've
13 thought of at this point but definitely can, happy to do
14 that.

15 COMMISSIONER HAUGEN-HOFFART: That would -- that
16 might be a good place to, you know, have that
17 communication with the State.

18 THE WITNESS: Sure.

19 COMMISSIONER HAUGEN-HOFFART: Yep. Thank you.

20 THE WITNESS: Thank you.

21 COMMISSIONER HAUGEN-HOFFART: Now I'm saying no
22 further questions.

23 THE WITNESS: Thank you.

24 ALJ HOGAN: Mr. Mahlberg, any redirect?

25 MR. MAHLBERG: No, Your Honor. Thank you.

1 ALJ HOGAN: All right. Thank you, Mr. Daum.

2 THE WITNESS: Thank you.

3 ALJ HOGAN: Any further rebuttal witnesses on
4 behalf of Summit?

5 MR. DUBLINSKE: No, Your Honor.

6 ALJ HOGAN: All right. Any other issues we need
7 to address before we conclude today?

8 MR. JORDE: Your Honor -- sorry, go ahead.

9 MR. PELHAM: I was just going to say that if we
10 could get a rundown as to what is anticipated tomorrow
11 so everyone is on the same page so we don't start off
12 tomorrow wondering where we're going to start.

13 ALJ HOGAN: Yep. And I'll just note that it's
14 my understanding Emmons County intends to call, I think
15 they filed a list, two to five or six -- one for sure
16 and then four, five maybes, I think.

17 And, Mr. Jorde, I think your list had two
18 witnesses.

19 MR. JORDE: Correct. The Kertzman Farm Trust,
20 the two owners of that will testify. That's all I've
21 got.

22 ALJ HOGAN: And on behalf of Summit, I know it's
23 hard to guess, but do you anticipate rebuttal witnesses
24 tomorrow?

25 MR. DUBLINSKE: At this time we do not, Your

1 Honor.

2 ALJ HOGAN: Okay. All right. Other matters to
3 discuss?

4 Mr. Jorde, did you have something?

5 MR. JORDE: No. Mr. Pelham read my mind. I
6 just wanted to be clear, though, because I know we've
7 kind of moved things up in the schedule and that's
8 perfectly fine, but does -- maybe Mr. Dublinske, does
9 that mean that Mr. Daum and Mr. Dillon are not going to
10 be presented tomorrow? I just want to make sure I have
11 the clear lay of the land. If I put my two people on
12 and Mr. Braaten calls whoever he calls, is that -- I
13 mean, is that the end of it? Or maybe you can clarify,
14 Mr. Dublinske.

15 MR. DUBLINSKE: Yes. So my understanding from
16 Judge Hogan's order was that we were expected to put on
17 as much of our rebuttal case as we could today and that
18 she was leaving open the door to potentially allowing
19 rebuttal of new material from tomorrow. Knowing the
20 witness list, at this time I don't anticipate calling
21 anybody. And if we did, I don't know whether that would
22 be Mr. Daum or Mr. Boeshans or somebody else entirely.
23 We have no current plans to put Daum or Dillon -- I
24 think were the two you mentioned -- up tomorrow.

25 MR. JORDE: Okay. Or anybody at this time is

1 what I'm hearing.

2 MR. DUBLINSKE: That's correct. That's correct.

3 MR. JORDE: Okay. Thank you.

4 ALJ HOGAN: And I will note that we will take
5 public testimony tomorrow too so that's the other factor
6 that we -- or item we have for our hearing tomorrow.

7 All right. Anything else?

8 Just to clarify, Mr. Phillips, are you or
9 Mr. Bakke appearing at tomorrow's hearing?

10 MR. PHILLIPS: I don't believe so, Your Honor.

11 ALJ HOGAN: All right. Well, I will note --

12 MR. JORDE: I'm sorry, one more thing, if I can.
13 Did we determine if there might be this same setup for
14 tomorrow? Is it going to be phone? And then if it's
15 phone, if that could be circulated to me, I'd really
16 appreciate it.

17 MR. SCHOCK: Phone, it should be -- sorry. I
18 wasn't thinking about the phone question so let me --
19 yeah. Yeah. So we do have a GoTo Meeting link for
20 tomorrow. If you don't have it, shoot me an email and
21 I'll send it to you. You can certainly dial the phone
22 option on that GoTo Meeting.

23 I know the sound contractor is there setting up
24 right now. They're going to have at least limited
25 connectivity. I don't know that we'll be able to do

1 audio and video, but we will certainly be able to
2 broadcast out audio, is what I'm told. So you could
3 have the audio connection for you -- would be available.

4 MR. JORDE: Okay. Thank you. I'm sending you
5 an email right now. I appreciate it.

6 ALJ HOGAN: All right. I will note for our
7 record it's 3:44 p.m. and that we will recess for today
8 in Public Service Commission Case No. PU-22-391.

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